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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 14 April 1997

# Journal des débats (Hansard)

Lundi 14 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 14 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 14 avril 1997

*The committee met at 1001 in the Days Inn, Kingston.*FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services /  
Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen, members of the committee. I'd ask the members of the public to sit down. I'd ask you to continue your conversations out in the hallway if you could. Otherwise, we will be proceeding.

This is a continuation of the hearings of the standing committee on administration of justice, consideration of Bill 84. The committee is very pleased to be here in the historic city of Kingston today. The committee welcomes Leo Jordan, member for Lanark-Renfrew and John Gerretsen, member for Kingston and The Islands.

As one of my duties, I am here to keep order and I would remind members of the public that the standing orders provide that no demonstration can take place in the audience, and that includes applause and statements of disapproval. It's my jurisdiction to make sure that the individuals making presentations are not subject to any influence, and that's the reason for that.

**Mr Peter Kormos (Welland-Thorold):** Chair, if I may, that does not include people shaking their heads in disgust at Bill 84, does it?

**The Chair:** I usually am not concerned with observing that type of behaviour, but we have not had a problem in the past and I'm sure we won't have a problem now. It's just I must point out the rules before we start.

## BROCKVILLE FIRE DEPARTMENT

**The Chair:** If we can proceed, I am welcoming the Brockville fire department, Fire Chief Harold Tulk. I'm sorry, it's Wayne Shields, deputy fire chief, as well. Welcome, fire chief and deputy chief. We have allotted 15 minutes for your presentation, including any questions, and I would ask you to proceed.

**Mr Harold Tulk:** Mr Chairman and members of the committee, my name is Harold Tulk, and I have been in the fire service for 27 years. I've been a fire chief since 1984 and served as county fire coordinator as well. I was

employed by the office of the fire marshal for four of those 27 years and travelled across this province.

As a fire service adviser, I have instructed at the Ontario Fire College and the Canadian Emergency Preparedness College. I have served on the Minister of Labour's section 21 committee, deliberating on occupational health and safety as it relates to the fire service. I have served as co-chair of the Ontario professional standards-setting body for the fire service. I was a member of the board of directors of the Major Industrial Accident Council of Canada, and I have served on the executive of the Ontario Association of Fire Chiefs since 1987. As I was duly corrected this morning, I am currently in my fourth year as the organization's president, and I have been on the fire service legislative review committee of the Ontario Association of Fire Chiefs since it was established in 1988.

I am pleased today to be afforded the opportunity to address your committee on behalf of myself and the fire chiefs and deputy fire chiefs of the united counties of Leeds and Grenville, which consist of 17 municipal fire departments serving 25 communities. They are in the audience behind me, to my immediate right.

We believe that Bill 84 is a very positive piece of legislation for Ontario's fire service. The shift in emphasis to public education and fire prevention from fire suppression is providing the dynamic leadership required to form the framework of Ontario's fire service needs today and into the next century.

The results of effective public education and fire prevention initiatives are demonstrated in the fire marshal's statistics which were released to you at the beginning of these hearings. The value of the Learn Not to Burn program is well realized in Leeds-Grenville. This is where the shift in emphasis from suppression to public education, with the introduction of the Learn Not to Burn program, was initiated in this province. We are pleased to see the program move across the province and indeed our country.

I believe this legislation will become the envy of every fire jurisdiction in Canada and the United States. The Solicitor General and this government, along with other members of the Legislative Assembly, should be very proud of the legislation in its final form. We realize that Bill 84 represents change and that there has been a great deal of speculation and remarks declaring Bill 84 the ruin of the fire service and a major threat to public safety across the province. We believe just the opposite and offer our comments to the committee to assist you in securing approval of Bill 84.

Fire service standards: Ontario's communities are very diverse in makeup and spread over large geographical



areas. The needs of the communities are as diverse as their makeup in fire protection. Ontario's fire service has evolved over the years into a very large volunteer, composite and full-time fire protection package. We have full-time people where they are required and we have volunteer people where they are required, and they work well together.

The balance that has been achieved in this province would have been difficult for the best of planners to predict. Mutual aid systems, volunteer firefighter associations and professional firefighter associations have done a remarkable job in the clear absence of any reference legislation to provide leadership in this process.

We believe the key to sustaining this progressive development is expressed in Bill 84 with the authorization of the fire marshal to monitor levels of fire protection and having the ability to make recommendations to correct imbalances that may be identified in the local community. The office of the fire marshal in this province has been the key resource to the fire service. They maintain a global contact with full-time, composite and volunteer fire departments and act as the catalyst which ties the system together as a cohesive fire protection package across the province.

**Definition of a fire chief:** The need to legislate the appointment of a fire chief to research required fire protection development processes and ensure that resources are properly managed is absolutely essential to maintain a balance in the development of public safety policy and proper application in the field. The province has provided the leadership and flexibility within Bill 84 which ensures that life safety from loss due to fire and other emergencies receives the appropriate attention for the citizens on a global basis, with the local elected representatives deciding local community matters in public fire safety.

The fire chief is council's agent and technical specialist in fire protection, as a police chief is to a police commission. Council knows the attitudes in the local community, and the fire chief is the one person who can provide the professional advice on technical standards and the ability of the resources in the community to provide the level of service that is appropriate as directed by council.

It is imperative to understand that accountability and consequences for the loss of life and property will continue to be examined in the future as we change the way we do business in local government. Coroners' inquests, civil court actions, boards of arbitrations, Ontario Municipal Board hearings, criminal investigations and any other process that requires a full explanation of local policy and resource application call on the fire chief to explain the local community resource development; they do not call on local bureaucrats that support the infrastructure. The accountability rests with council and the fire chief, and it is our view that the legislation should reflect actual practice in today's changing world.

The reporting relationship set out in Bill 84 ensures that the appropriate level of consultation can prevail between council and the local fire chief. This will provide a forum that will facilitate the management of change in a safe and reasonable way in local communities, whether they have a full-time, composite or volunteer fire protection system.

**The labour relations process:** The comments and remarks about the labour relations provisions in Bill 84 are overpowering the valuable and responsible principles that will advance public safety in fire protection in this province. This particularly applies to municipal bureaucrats and professional firefighters. Professional firefighters are highly skilled in collective bargaining. Municipalities have matched those skills in recent years. Responsible collective bargaining results will continue to evolve as each side becomes better prepared. Neither municipal bureaucrats nor firefighters should require the province to legislate a position of advantage. They bargained their way into these agreements and they should be obliged to bargain any adjustments within a process that is fair and reasonable for both parties. Adversarial collective bargaining mentality has no place in the public safety forum.

Having said that, we also realize that consensus cannot always be achieved even though it may be desirable. The extremes of both positions must be adjusted if we are to move forward in a safe and reasonable way. This process represents a significant change, and we can stick our heads in the sand and perpetuate status quo or we can accept the challenges and see the fire service flourish in this province.

The management exclusions process will provide the resources required to create a management team that is appropriate for the size of communities we must serve. All parties involved in the process must conduct themselves in a responsible way in the transition. Clear and concise rules of behaviour in labour relations entrenched in law will ensure that any party proposing to establish fire protection treats employees the same. We believe that the municipality must invariably remain the employer by definition to ensure that the service provided remains in the best interest of the public. Council must also have access to all of the options in the delivery of service, and this includes even analysing part-time, private or otherwise. As long as everybody is on a level platform, we think it will be a fair process.

Firefighters are the best people to represent firefighter concerns. Trade unions bring congestion to the labour relations process. Should they enter the fire protection environment, I suspect that the open dialogue between union representatives and management representatives will be restricted to contractual matters between the employee and the employer. Firefighter associations do far more than contract negotiations with a fire chief. In many cases, public education programs, fire prevention and training programs are discussed in an open forum without any restriction. They identify problems in the workplace at early stages and enhance our ability to provide a quality service.

We believe the quality of life and proactive relationships in the workplace will be altered in a negative way without our firefighters across the table representing their fellow employees. I cannot imagine a person who does not work in the police environment representing police constables at the bargaining table. Volunteer firefighters have associations that represent firefighter issues. We believe it is in the best interests of the government and the citizens we serve to continue with professional firefighters representing firefighters issues such as working



conditions and labour relations in the full-time environment.

**1010**

Our professional firefighters are the finest in the country, and given the opportunity, I believe they will accept the challenges and assist with required changes in the bill which will establish the fire service environment as a flexible and productive workplace in the best interests of the citizens they serve.

Changes to the structure of a fire department are necessary if we are to respond to the service requirements in the future. We all have a duty to foster the best results that will provide a transitional process that is reasonable and safe in service to our firefighters, and most important, the citizens they serve. Bill 84 will not threaten public safety; however, it does mean we will conduct our business in a different way.

Conclusion: There are certainly challenges in Bill 84 for municipalities, fire chiefs and all firefighters. However, we have continually asked the government to provide leadership in public safety. You have done so. You have given us Bill 84 and the challenges that go with it. We welcome the challenges within this bill and the opportunities that this legislation will provide. You have done all the right things for the future of Ontario's fire service in the interest of public safety. We are sure that the hearings process will provide the necessary information required to make adjustments where you can, to ensure that we make the shift in behaviour in a safe and reasonable way. Thank you for your leadership in public safety and the opportunity to be here today. All of which is respectfully submitted for your consideration.

**The Chair:** Thank you, Fire Chief Tulk. We only have a little over a minute per caucus. The first, continuing in rotation, is the Conservative caucus.

**Mr Frank Klees (York-Mackenzie):** Can you help us as a committee understand what it is about this bill that has precipitated the kind of communication by some who are saying that this bill in fact threatens safety? You have made it very clear that you believe this bill is in the interests of safety and will enhance it. What is it that has caused the kind of campaign to the contrary that we've seen across the province?

**Mr Tulk:** I think one thing that's very clear to me and to the fire chiefs in Leeds and Grenville — we've studied this process — is that the professional firefighters have represented themselves in a very reasonable way over the years. Not only are they losing what they perceive to be ground at the bargaining table; they are being challenged with trying to keep their own identity as the representative person for the professional side of the fire service.

We believe that has caused a major problem, the certification process, bringing the trade unions into an environment that really has no place for extensive labour relations processes, so if the trade union issue and certification were dealt with, I believe we could probably proceed in a more comprehensive way. That was my experience even at the fire service review table.

**Mr David Ramsay (Timiskaming):** Thank you, Chief Tulk. I'd like to continue on that too because I think it is refreshing to hear you say this. I hope the government members are listening, that this part is of concern to

firefighters and that we could have a trade union war out there. Is that what you mean by "trade unions may bring congestion to the labour relations process"?

**Mr Tulk:** If I understand the certification process correctly, and I'm only recently starting to study it, we could be preoccupied a lot of time with disciplining ourselves, not speaking to certain issues with our employees, which has been the custom in the past. I just think it's going to be counterproductive in the long run. There are some things that you want to accomplish in labour relations as a government, as a provincial body, and I think they can be accomplished with firefighters representing firefighters. I don't think there's anything to prevent you from doing that. To add another step in the process is going to complicate it in a significant way.

**Mr Kormos:** I'm interested in your comments on the prospect of privatization and part-time firefighters. I have to ask you whether you think private firefighting services can provide the same quality of service; a private, corporate, for-profit like Rural/Metro in the United States which I'm told has been visiting the city of Waterloo, making a pitch to them. Do you believe that private firefighting services can provide the same quality and committed professional firefighting services that public firefighting services can, as historically has been the case?

**Mr Tulk:** Mr Kormos, I don't believe it's an issue of can they or can they not. I think the issue is that if they have to put up a service model and a level playing field where all the rules are the same, if they have to meet the same standards, if they have to treat employees the same, if they have to do all those things, then they have to provide the level of service set out in the standards.

On a level playing field, if they can do it and make money, if the rules are the same for both sides, it's only reasonable that a municipality should be able to do it for less. There has never been anything to prevent them from privatizing in today's world. They could come up and make submissions at any time. I believe that every time they come up and make a submission and have to meet the criteria in Ontario, it's going to give them great trouble because they can't make money doing it. It's not a profit venture, so they won't do it.

**Mr Kormos:** The mayor of East York, Michael Prue, when he appeared in Toronto, expressed great regret about his municipality, East York, having privatized three areas of service — not firefighting yet — and indicated that at the first opportunity, when those contracts expired, those services were going to be returned to the public sector. I think it's an interesting proposition. I don't quarrel with your right to say it, but I think there's far more there than meets the eye.

**The Chair:** Thank you, Fire Chief Tulk, for attending and making your presentation here today.

FRANK COLEMAN

MAUREEN SCOTT

**The Chair:** Our next presenter is Frank J. Coleman. Good morning, Mr Coleman. If you have somebody with you, I'd ask you to identify her for the purposes of the Hansard record.

**Mr Frank Coleman:** I thank the committee for this opportunity to speak. My name is Frank Coleman and I



have with me Maureen Scott who will be sharing my time here today. Maureen will speak first and I'd ask her now if she would proceed with her comments.

**Ms Maureen Scott:** Thank you, Mr Chairman, for this opportunity to speak to you and other members of this commission. My name is Maureen Scott from the small city of Trenton, population 17,000, soon to become the great city of Quinte West, population 47,000. I'm not married to nor do I have any firefighters in my family. I'm a long-time resident of Trenton and one who has been involved in virtually every aspect of her community, from minor sports to the arts to community care to ratepayers associations.

It is with some knowledge of my area that I appear before you to speak of the concerns that our citizens have with respect to Bill 84. I do not profess to understand all of this bill, nor for the most part do I criticize some of the recommended changes, nor am I here to debate the provincial restructuring process, for I believe it to be, for the better part, necessary and beneficial to all of us.

1020

What concerns me today is the possibility of Bill 84 being unable to guarantee the safety of not only my children and my grandchildren but indeed our entire citizenry by the inference that the structure of the existing Trenton fire department, or for that matter any fire department in the entire province, would, could or will be left, through the suggested restructuring of the chain of command, with the suggested increase in the bureaucracy and the resulting paperwork, to reliance on a volunteer force or, might I add, even worse, through privatization of this service.

Of course I refer to the proposed inclusion of full-time firefighters into the management structure and the proposed reliance on the volunteer firefighter to the front-line emergency response team.

I have on numerous occasions from my residence — and in relation to the location of our firehall, and through the use of a scanner — been able to personally time the sound of the sirens leaving our station for fire calls. It has been remarkable and somewhat overwhelming and unbelievable. I wonder if the structure from full-time firefighters to the use of volunteer firefighters in these emergency situations would be the same — and notice I am saying "same" as opposed to "nearly the same" — as it is now, as I speak to you.

Because I am acquainted with many volunteer firefighters and their lifestyles and work commitments, plus location of these commitments, either lifestyle or business, along with their dependence on personal vehicles to get to these emergency situations, I suggest that the response time would not be the same. Again, I am using the word "same" as opposed to the phrase "nearly the same." I need to know that the response time would be the same. I need to know this.

Situations of stress and trauma call for a team effort, best described as if in a hockey game with two forwards and a centre going down the ice and the centre passing to his wing man and knowing without looking or hesitating that his wing is there waiting for him to pass. That comes through personal dedication to the game, faith in your line mate, knowledge of the game, hours of practice,

training and determination that you will succeed towards that ultimate win.

Fighting fires, in my mind at least, is and must continue to be a team effort. Firefighters must know they are going into an emergency situation with the very best of team effort if they are to succeed. They must know that. There is no room for a second guess, a second chance, whats, ifs or buts. They must know that everyone first on the scene is part of the first-line response: highly trained, truly professional and focused on situations so there leaves no room for error through wondering if his wing man is in place, so he can pass the puck and win that game.

I said earlier that it is not my intention to take up this valuable time to expound on the whys and wherefores of this bill. I just want to leave you with this feeling that, for all the years to come, after the restructuring process is totally in place, all of us gathered here today will be able to say, "At least we didn't screw up the process of emergency response time, whether it be firefighting, policing or ambulance." I have mentioned ambulance response time.

I leave you with this thought: I am very glad that the majority of Ontarians do not possess scanners, for if they did and if they used them for the purpose that I do, I am afraid another hearing such as this would be convened and I would be back here again speaking to you as I have today about the importance of response time in any emergency situation.

We have a fine department. Please let them do their job. Please let the bureaucracy do theirs. Let me go home and tell Trentonians that, yes, rationalization and realization prevailed here today in this hearing. All of us will go home and get a good night's sleep knowing that our fire departments are staffed with the very best qualified people possible.

**Mr Coleman:** My name is Frank Coleman, as I mentioned, and I am a retired firefighter, having served 29 years with the Trenton fire department. I'm aware of the changes in restructuring being proposed by the provincial government with respect to municipalities. I am aware also that some of these changes are necessary to facilitate expenditure control and efficiency.

While modifications are undoubtedly necessary, it would not be prudent in my opinion for the province to enact legislation which could diminish the level of fire service presently existing in Ontario.

Bill 84 as proposed appears to provide for a wide range of options available to municipalities with respect to providing fire protection services. Municipalities may, for example, elect to test alternatives to the use of full-time firefighters by utilizing part-time, volunteer or contract employees in a false attempt to reduce expenditures.

With respect to volunteers, I have personally experienced fire situations where only one or two volunteer firefighters from a roster of 18 were available to respond to an alarm. This sort of inefficiency would surely result in higher insurance costs and a much greater concern by citizens for their safety and protection.

Experience has shown that fully trained firefighters ready to respond instantly are the only way to provide adequate protection to persons and property.



It is my hope, then, as a private citizen, that the provincial government will reconsider any proposal which could diminish the level of fire protection presently available in Ontario, and that it will amend Bill 84 to provide more fully for a fire service which will maintain at least the present level of protection that we all deserve.

This completes my comments and I thank the committee for the opportunity to speak on this issue.

**Mr Ramsay:** Thanks to both of you for your presentation today. You've brought up very good points that I think are important to be addressed through amendments in this bill.

Mr Coleman, I think your point about the part-time firefighters is just excellent. None of us on this committee have anything against part-time firefighters except, as you say, that when the call goes out you can be assured that the full-time firefighter who is stationed at the station is going to be there and the response is going to be made. I think that is so vital.

This bill is so tempting to municipalities to say, "We could really make a lot of cuts in our fire department," but as you know, that response time is so important to save lives. I've certainly learned a lot through the last week of hearing about how important response time is. The fact is that only a full-time firefighter at the station will give us that response that's going to save lives, and I think you made that point very well. I thank you very much for coming forward today.

**Mr Kormos:** Thank you, Ms Scott and Mr Coleman. We've just received a copy of a report done by the municipality of Durham, North Carolina, back in 1985, when they reversed the decision they had made in 1971 to consolidate police services with firefighting services using police effectively as part-time firefighters. They reversed that decision because they found that there was a delayed response time, a lengthier response time, in this case, by part-time firefighters: police officers who were out doing police work and then were called upon to do firefighting services.

There's also emphasis in everything we've received on the concept and the need for teamwork. Ms Scott, you put that in an analogy that I know Mr Carr will understand because of his background.

I just can't for the life of me understand — there's been an argument made saying, "Well, the part-time provision is only for fire prevention officers." If that were the case, the bill should be amended to say so, and even having said that, it has been commented that a fire prevention officer has less credibility when she or he is not in fact a firefighter in their community, with young people, with families, what have you.

Can you in any way understand why there would be a proposal — how would a part-time firefighter conceivably fit into the team system of firefighting? I'm sure you've reflected on this. Is there any way that you can identify a role for a part-timer in the team approach to firefighting, which is the successful tradition here?

**Mr Coleman:** I certainly have reflected on this. It's been indicated I think that it's critical that a firefighter be available to respond immediately. It's also critical that he be fully trained. I feel with part-time firefighters there would certainly not be the degree of training that full-

time firefighters receive. There would be no assurance of course that even if it were legislated that training be carried out. While volunteers per se can serve a good purpose as a complement to full-time firefighters, nevertheless, in order to have immediate response to fire situations, it is necessary to have full-time firefighters as we know today, for that purpose.

1030

**Mr Klees:** Ms Scott, I particularly appreciate your example of the professional hockey team and the fact that we're in eastern Ontario, I can understand why you used that analogy. I assure you, it hasn't come up in Toronto. There's probably a reason for that.

I'd like to just focus in on your concern regarding volunteer versus full-time firefighters. You're aware currently that your fire department has the latitude to use volunteers as well as full-time people?

**Ms Scott:** Yes, sir.

**Mr Klees:** And there's a reason why they're staffing their department as they are.

**Ms Scott:** May I clarify, sir, that I am here just strictly as a citizen. The politics and the structure I prefer not to get into because I cannot debate that logically.

**Mr Klees:** I understand that but I do think it's important for the public to understand that departments today have the latitude to staff with full-time as well as volunteer — and/or. There is a management responsibility that is assumed by all fire departments now. The fact that your department is now currently staffed and is delivering the kind of emergency response time as it is is a credit to their management function and their sense of responsibility.

I just want to make it very clear that there's absolutely nothing in this bill that interferes with that. The same people, the same municipal politicians, the same management staff will have the responsibility to ensure that their citizenry is appropriately served. I think it's important for you to know that. Ultimately the responsibility is with the people who manage that department. This bill will not interfere with that.

**The Chair:** We must move on. On behalf of the committee, I thank you for your presentation today.

RAY BUSHFIELD

**The Chair:** Our next presentation will be made by Mr Ray Bushfield. Good morning, Mr Bushfield. How are you sir?

**Mr Ray Bushfield:** Very good, thank you. Good morning, Mr Chairman, members of the committee. My name is Ray Bushfield. I own and operate a business out of Brockville, Ontario. The business is called Kaizen Systems. I began the business in 1987. Our primary function as a company is to work with the development of teams. It's because of that experience over the last 10 years and because of the 400 corporations and associations that I've worked with in that time that I'm here to talk to you this morning.

You'll see in the handout I've given you that my involvement with teams has been mainly in the private sector. I've worked with companies like Ford of Canada, 3M with their self-directed process, Price Waterhouse and so on.



During the last 10 years of working with all these teams, one of the things I've found is that there are really six factors that impact a team's performance at a high level and I've highlighted those six factors to you: purpose; communication; cooperation; process; commitment; and trust. I'd like to briefly talk about those six factors because I believe that Bill 84 in its current format may have a dramatic impact on those six things.

Teams that perform at a high level, contrary to the last speaker's presentation, I really don't see it like a professional hockey team. When you have a group of professional athletes who are highly trained, highly skilled and make it to that level, you can take one right-winger from one line and put him with another centre man from another line and they'll function well because they've all been trained similarly, they're all at a very high level, they're all professional athletes.

When you start working with people who are not at that level and you start bringing in someone with college experience who has not made the National Hockey League and you start putting a right-winger from a college team on the line with a centre man, now you're starting to really work with the mix. I think those kinds of adjustments, although conceptually they may seem to work, in reality they don't.

One of my customers is a company, 3M. They make tape. Statistically, what we've proven and seen is that when you take someone who has a varying degree of experience off a work unit and put them in with a different unit, the quality of that output will go down. It will go down noticeably and immediately. There's a period of adjustment. After that period of adjustment, what will then happen is that the quality may go back up, provided that new person entering that team can work through these six factors.

Let's just talk about these factors for a moment. Purpose: You would think that everyone operating on a team would have the same sense of purpose and you would hope they would get that from their mission statement or whatever it is they would look to. My experience has been that you can have three teams from the same company or the same corporation and they have three totally different senses of purpose. One might be quality-driven, one might be service-driven, one might be customer-driven. When you take one person off one team and have them go to another team, where their purpose is different, they just don't fit. That's why I just don't see how adjusting people from crew to crew can really be positive and successful.

The second thing is the communication. I agree with the prior presenter when the person said you really want that centre man to look at the winger and you don't even really want them to look; you just want them to know where that individual is. I believe that when you have a core group of people who have worked well together for a period of time, there is not only communication but a sense of trust. It's the trust in each other's competence. I just can't imagine going into a high-risk situation with people who have not been as trained as I am and as competent as I am and have my trust factor. I just can't believe you want to put people in that situation.

I'm not totally familiar with all the things that are asked of a person when they're fighting fires. I do

believe that when you look at these six factors, you'll agree that there does need to be cooperation, there does need to be the same sense of commitment, there does need to be the same sense of trust. When you look at a part-time person versus a full-time person, here's where my concern is in terms of commitment: I think when you have someone who is part-time, they obviously have to be working elsewhere to subsidize their income. Therefore, when you need that individual, I'm not all that sure we have a workforce in Canada or in the province that can respond. In other words, you have someone who's working part-time in another position. All of a sudden you need that individual right at this moment. Will they have the flexibility that they can leave whatever they're currently doing and rush to the situation? I'm not sure they can do that. I'm not sure the employers across the province will allow that.

I guess what I'm really saying to you is that in my mind it's kind of like making a cake. There are six key ingredients. If we start adjusting the ingredients, we won't get the same flavour; we won't get the same cake. There's a core that I believe you need to have. I'm not sure if that core crew size is four people, five people, six people, eight people; I'm not sure what that core is. All I know is that until there's a lot of research and work done on that, I wouldn't want to adjust that core, because I think once I do that, I'm increasing the level of risk I'm exposing the firefighter to and also the public to.

The second issue I wanted to talk to you about deals with the ratio between managers and firefighters. From what I understand, Bill 84 may allow some adjustment with that. Crew captains may become part of the management team. From my interpretation, it seems to me that you may have a substantial increase in the quantity of management people in a firehall. Let me tell you, if that interpretation is right, why I feel very strongly against that.

Number one, it goes against the current grain of all business. What everyone else is doing in the private sector successfully, I believe, is downsizing the quantity of management. Why is that? Part of the reason for it is that people who are in the workplace today want a whole lot of different things than my father and mother wanted when they were working. What people in the workforce want today is a sense of being involved in decisions. They also would like to be part of the whole team that is getting the job done.

If you take a hockey team, the analogy that was used prior to this, and you have an on-ice captain, you have someone like Randy Cunneyworth in Ottawa, since we're in eastern Ontario — if you now make that person a management individual, the way the team will respond to that individual will be highly different. Their benefit package might be different, their responsibilities might be different, their title might be different. If you take that on-ice captain and make him part of the management group, I just don't think the team will function as well. I say that to you because of all the years I've had being involved with teams.

Those are really the two issues I wanted to talk about today. My concern, and that's why I'm here this morning, is that we may make decisions without really looking at

these six factors, because we may not know that those six factors actually exist.

1040

**Mr Kormos:** Yours is the first of its kind by way of submission, not the general theme, but in terms of being very analytical about what makes a team. Of course, there's been a lot of discussion about the need for teamwork. Again, some of these same American reports where they've tried to blend firefighting with police services indicate that the two jobs are entirely different. Policing is very much an individualized type of approach and firefighting is very much a team approach.

The management area that you discuss is interesting as well. Some of the very municipalities and fire chiefs who have supported this proposition of the need for the employer to designate more management positions come from firefighting services that haven't even utilized their right to have a deputy chief. It's something very out of whack there. Here these people are saying, "We need more management people," but they haven't even designated deputy chiefs. I'm a little cynical about some of this; you've got to understand, that's my nature. Do you have any suspicions about the motivation for municipalities to want to designate more managers in this arbitrary way that's provided in the bill? What's the motive? What would be served?

**Mr Bushfield:** I really wouldn't know the motive, to tell you the truth. I can only guess at it. My feeling is that in an ideal world what a lot of us would like is a higher number of people who we can have direct responsibility over and have direct impact on their day-to-day behaviour, but that's contrary to the function of how teams work.

If I have my company, what I would like is every single person reporting to me and I would like to be able to say to each one of these people, "Here's when you're going to work and here's how you're going to work and here's what you're going to do and here's what you're not going to do." From a situation of directing people, that's what I would like, but I'm also smart enough now to realize that although in my father's generation you could function that way, in my generation you can't, because you just can't find people who will operate in that kind of system and operate at a high level. If you could, in my mind you'd see 3M, Ford, Price Waterhouse increasing the number of managers they have rather than doing completely the opposite. They recognize that the way you maximize team performance is to reduce management numbers, increase the skill and the effectiveness of the people who are actually doing the job. Every company that I worked with in the last five to 10 years, that in effect is what they've done.

**Mr Gary Carr (Oakville South):** Thank you very much for bringing that unique perspective. We appreciate your coming in and speaking with us this morning. I agree. Fortunately, I think somebody studied a little bit of management. The old master-slave relationship is going out, although in some firms not as quickly as others. But I think you're right, getting people to do something and being part of the team.

One of the things the government is struggling with not only in this area but in other areas is having the same

people making any discipline decisions that are in the same bargaining unit. It's the same right now for principals, for example. They're in the same bargaining unit as teachers. I would like to give principals more authority and responsibility. Right now it gets bumped up to the trustees and to superintendents. Take that layer out, give the principal the decision with all of the parents and the teachers to make decisions on discipline and so on.

I understand we've got a good team spirit now working in our fire departments. Is there any validity in some of those people saying that you cannot have managers who are in the same bargaining unit, that there may be conflicts as a manager, and balancing that off with having the good teamwork, which we do now because they do work together? Is there anything that can be done to alleviate that, or should we not worry about having the same people who may be managing in the same bargaining unit as the people they're managing? How do we struggle with that?

**Mr Bushfield:** Just two quick things on that, sir. One is that I'm not really sure I would want someone as a manager in the same bargaining unit. I would rather not have that person be a manager.

The second thing is, in terms of discipline, if some of the strategy were to be to give more disciplining power and authority to the people inside the management of the fire station, and again I can only comment from a team perspective, that is 180 degrees from what's happening in the rest of the private sector, where what we're really trying to do is get the team to discipline itself. What does that mean? To me, what that means is that you need to have people who are highly professional, highly trained and know how to give that kind of discipline and feedback to each other. I think that's very attainable, because it's happening in the private sector.

In order to reduce that management-slave kind of mentality, you really have to give the right people the right skill. If we give the manager that skill, we're going back in time in terms of labour relations; if we give the team that skill, we're advancing to the year 2000. I think it's a question of where we place that skill.

**Mr John Gerretsen (Kingston and The Islands):** I guess the main concern has been about the labour relations aspect of the bill, part IX. Are you familiar with them, sir?

**Mr Bushfield:** Yes.

**Mr Gerretsen:** Do you think it's somewhat unusual for a government to start legislating working conditions? It seems to me that what we're really talking about here to a large extent are contracts that have been fully negotiated between different departments and the municipality etc, and there's almost an attempt here to take away some of the things that have been freely negotiated. That's the main concern that we certainly have and that a lot of the presenters have had as well, the way I understand it. Isn't that somewhat unusual, that a government would just unilaterally take away some rights that have been freely bargained for and negotiated by a group of people?

**Mr Bushfield:** I would say it's highly unusual but reasonably consistent with things that have happened in the last six months. I don't know, Mr Gerretsen, if I can



really comment on that. I'm kind of surprised by a lot of things.

**The Chair:** Thank you, Mr Gerretsen, Mr Bushfield.

**Mr Ramsay:** Do we have more time?

**The Chair:** Yes, you have, actually, one more minute. Sorry.

**Mr Ramsay:** Thank you very much for your presentation. You really contrast, with the management exclusion, the different styles of management we have in Ontario. It surprised me that a chief like Peter Ferguson of Toronto, with about 3,500 firefighters, is quite happy with the way he manages that group, and chiefs in Windsor and Peterborough and other towns of varying sizes, and yet some of the chiefs are in that old command-to-control mode and want more management positions. I find the contrast is really stark.

I think you're right. I think what we're looking at today and will be developed in fire departments really is more the modern style of flattening your middle managers out. This bill looks to be wanting to bring it back. I think your analogy of having a captain who is a player there but not a manager is very perceptive too about how people perceive that person when you change the subteam he's on, management versus being on the bigger team. You bring some very good perceptions here, and I hope the government members have really learned from your presentation, because I know I have.

**The Chair:** Mr Bushfield, I thank you on behalf of the committee for lending your expertise to our deliberations.

1050

VICKI SCHMOLKA  
JANE ANDERSON  
GAVIN ANDERSON

**The Chair:** Vicki Schmolka and Jane Anderson. Good morning.

**Ms Vicki Schmolka:** My name is Vicki Schmolka. This is my daughter, Jane Anderson, and my partner, Gavin Anderson. We've come to talk to you about a fire we had at our house at 61 Richardson Drive on February 27 of this year.

**Mlle Jane Anderson :** Bonjour, je m'appelle Jane Anderson. Aujourd'hui je vais vous parler d'un feu chez moi.

Papa faisait notre souper, des patates frites et de la viande. Jamie, mon petit frère, et moi et Papa mangeons en regardant la télévision. C'était mon émission favorite, les Simpson. Papa a entendu un bruit. Il est allé dans la cuisine. Il a crié : «Un feu, un feu. Jane, mets tes bottes et va dehors avec Jamie et restez là.»

Moi et Jamie sommes sortis de la maison, mais en sortant de la maison, j'ai mis le petit manteau de Jamie. C'était drôle. Nous avons rit.

Le papa de notre voisin Scott arrivait avec Scott. Il voyait ce qui s'est passé. Il nous amenait chez Scott. Scott et moi avons joué «allez à la pêche» et «les huit fous». Nous avons mangé de la crème glacée à la menthe avec des brisures de chocolat dans les cornets. Jamie aussi.

Les pompiers sont venus tout de suite. Ils ont éteint le feu.

Notre cuisine était toute sale, le plafond était noir, le poêle était tout brûlé. La fumée est allée partout dans la maison. Nous ne pouvions pas rester dans la maison. Ma famille et moi sommes restés à l'hôtel Ambassador pendant une semaine. Après, nous avons déménagé au chemin Notch Hill. Nous restons là toujours mais nous retournons à notre maison bientôt.

J'ai appris deux choses importantes : Une, les pompiers sont des personnes très spéciales. Elles ont sauvé notre maison. L'autre chose c'est qu'il faut prendre garde quand vous faites des patates frites à la maison.

**Mr Gavin Anderson:** Merci, Jane. I am Jane's father. It was me who set the fire, by accident. All I want to add to Jane's story is that after calling 911, my heart pounding, worried about my children's safety and what was going to happen to our house and everything that was in it, I ran out on to the sidewalk. By the time I hit the sidewalk, I could already hear the sirens from the first fire truck. I cannot tell you how welcome a sound that was. I've heard many, many sirens over the course of my life and have been pretty casual about hearing them, but from now on whenever I hear a siren, I'm going to think about who is standing out on a sidewalk waiting to be rescued and what police car, ambulance or fire truck is on the way and how many minutes or seconds might it be delayed through some process of going backwards rather than forwards in terms of keeping our neighbourhoods safe. It really was a frightening experience, and that siren of the fire truck was the instantaneous relief of knowing that things would be all right after all.

**Ms Schmolka:** You might ask where I was. I was in Montreal. My mother was in hospital in emergency, and I was there taking care of her. I came back to find that my kitchen was burned, our children were safe but our house was in quite a bad state. In fact, because the firefighters got to our house so quickly, there was very little damage to any of our personal possessions. We lost our fridge, our stove and there was smoke damage throughout our house. We're still not living at home. We hope to go home this week. We've been living in a small townhouse down the hill from where we lived, which we were very lucky to find. Jamie, Jane's younger brother, is three, and believe me, staying in a hotel, however nice, after a week with a three-year-old is no present. It was very good to find somewhere where we could cook our own meals.

The point I want to make is just that it was a very terrible time in my family's life not only with the fire but with my mother ill. The destruction in our house would have been so much greater if the firefighters hadn't come so quickly. We understand that if they had taken three minutes more, they would have been fighting the fire with axes and water; if they had taken five minutes more to get there, they would have had to fight the fire from the outside of our house, which means there would have been a risk to our neighbours and our house would have been totally destroyed and would have had to be rebuilt. As it is, we didn't really suffer any major damage to anything. We didn't lose our photographs of our children when they were young; we didn't lose any of our family heirlooms; we didn't lose any of our possessions. I didn't lose any of my personal work. With the kind of contract

work I do, it would have been a serious loss to me if I had lost some of my professional work.

It was amazing that the firefighters could get there so quickly. They got there in less than three minutes. It was just a simple grease fire. Gavin made french fries for the kids because he knew that would be relaxing, and they went to watch TV because they were all worried about Gran. I just can't tell you what a difference it made that the firefighters got there so quickly. They knew what to do when they got there. They didn't spray water all over our house on our grease fire. They put that fire out.

The intensity of the heat of the fire is unbelievable. I understand something about fire I never understood before. They say crawl when you're in a fire. You should have seen our walls. The bottom two feet are just white. It gets greyer and greyer and blacker and blacker as you go up towards the ceiling. If you're ever in a fire, please remember to crawl, because I can see how it could save your life.

Our kitchen is sort of an L with our dining room-living room. I had a big fern plant on the top of a buffet, I would say 15 feet from where the fire was and around the corner, and that fern was just scorched. Her little brother had a plastic bottle in the drain in the kitchen sink; it was melted. Our fridge was wrecked not because the fire touched the fridge but because the heat touched the fridge. The mouldings around our kitchen were scorched; around the doors, the wood mouldings were completely scorched. All of that had to be replaced.

Our fire, even though I can tell you we didn't lose anything personal or dear to us — I don't have a passionate relationship with my fridge or stove, which have had to be replaced — we didn't lose anything that was really personal and valuable, still cost about \$30,000 for the damage that was done in our house in terms of redoing our kitchen, new cabinets, new fridge and stove, new carpeting in one area. They had to paint the whole house. It has taken a very long time to get the smoke smell out of the house. They've had to use ozone in our house and blow fans and clean everything. All our clothes have had to be dry-cleaned. All our couches have had to be specially treated at the warehouse. The damage is amazing.

You can just imagine how much more the damage would have been if the firefighters had been any slower in getting there. It's scary for me to think about. It was terrifying for me to come home and discover there'd been a fire in my house and to see the damage and to just be grateful the family was okay. It could have been so much worse. I can't tell you, when I think about the kind of cost that would have been involved if the fire had gotten any further into our house. It really was contained to the stove and yet the damage was enormous. I'm eternally grateful to the firefighters of the city of Kingston who came so quickly to our house. We were very lucky that we had the competence of those firefighters working for us.

My big concern about Bill 84 is that this won't be there in the future, that Bill 84 opens the door to a different kind of fire service that won't be as good, that won't be as efficient, that won't be as reliable, that won't be as fast. The issue of fast: for me, I saw it in my own

home. Seconds later we would have lost more. I can't tell you what a difference it makes just losing a fridge and stove instead of losing all your possessions. It's hard enough living in another house and making do, but if we had lost everything, it would have been just crushing. My mother did die and then her companion died. We've had a very rough time personally as a family, and if we had lost everything in our house, it would have been a disaster.

Related to this is the whole issue of insurance. Our insurance is picking up the cost of the fire. Thank goodness for insurance, like people say. We were very lucky that our insurance company turns out to be one of the reliable and good ones who seem to be taking their job responsibly. We haven't had any complaints about how our claim is being handled. As I said, I estimate it's about \$30,000 to fix what we lost.

If the firefighters had been slower, we would have lost more, there would have been more damage, there might have been damage to our neighbour's property and the costs would have gone up astronomically for our one insurance claim. I believe the kind of fire we had in our house is commonplace. We were with some friends the other day, and she works for an insurance company. She said: "Oh, a grease fire in the kitchen. It's an accident. People forget, and it happens." We're not irresponsible people. It was just one of those things; it just happened.

I really am concerned that if firefighting response times go down, if the competency of firefighting units goes down, then we're going to see insurance rates go up as fires become more serious, the damage they cause is more serious, the injuries and deaths go up, the claims against insurance companies go up. Our \$30,000 claim for really a simple kitchen fire could have easily been a \$200,000 claim for all our possessions, rebuilding our house, moving us somewhere — not where we're staying now — at a much higher cost for a much longer period of time.

Our family is never going to pay back the insurance company. If we live to be 100, all of us, we're never paying back the insurance company for the claim against our house. That's the nature of insurance. It's everybody out there, all our neighbours, all the people in the community, all the people of Ontario, who are supporting our claim for our insurance. If we see decreases in response times with firefighters, insurance rates are going to slowly go up, go up, go up, who's going to pay for that? It's going to be individually out of our pockets.

**1100**

I feel we have a service that is exceptionally good. Why are we trying to destroy that service? Why are we trying to ruin something that seems to be working so well, that worked so fantastically for our family and our neighbours and our community? Why wreck a good thing that we have? Why open the door to changes that risk causing real tragedies for people? We were on the brink of a total tragedy. We're very lucky that we didn't suffer more damage.

I really fear the consequences are going to be raised insurance rates. You're going to save some money in the short term by changing the nature of firefighting protection in communities in Ontario but in the long term every



single Ontario resident is going to pay more in insurance costs. We know the whole basis of insurance is we all pay into a pool to cover things like what happened in our house. We're all going to have to pay more into the pool if we don't maintain the level of service we have right now.

I would really ask you to look carefully at the changes you're proposing in Bill 84 and consider what the impact is going to be, not only on firefighting services and response time, but on the actual costs to the people of Ontario and insurance rates.

**The Chair:** We've used all our time, so I'd like to thank you. We tend to deal in theories in this committee and you've given us very practical, personal experiences which are very valuable to us. We thank you both, and you too, Jane, for your excellent presentation here today.

#### OTTAWA-CARLETON REGIONAL FIRE CHIEFS

**The Chair:** Our next presentation will be the Ottawa-Carleton Regional Fire Chiefs, Gary Richardson, coordinator.

**Mr Gary Richardson:** Good morning. My name is Gary Richardson. I am the regional fire coordinator in Ottawa-Carleton. I'm also the fire chief in the city of Ottawa and I am speaking to you today as the regional coordinator representing the Ottawa-Carleton chiefs. I have some members of that group with me. To my immediate left is Hubert LaBelle, the chief of Gloucester fire department; to his left, Rick Larabie, the deputy in Gloucester; Dave Smith, the deputy chief in Ottawa; and, Randy Foster, the deputy chief in Cumberland.

The Ottawa-Carleton Regional Fire Chiefs represent nine fire departments providing fire prevention and emergency response services to over 700,000 citizens in one of the largest municipal regions outside of the GTA. Also of significance is the fact that all service delivery models are incorporated in that coverage, from fully paid urban to composite — paid volunteer — and full volunteer. We suggest that this will allow us to comment on Bill 84 from a more eclectic point of view than many of the other presenters you will hear during this process.

The legislation is, as we see it, a well-balanced approach to effect change and amalgamate several complex and dated pieces of legislation. As such, it is in itself somewhat complex and for this reason we have not taken a micro-approach in our presentation. To do so would, again in our opinion, jeopardize the passage of this bill which is integral to making the changes which are necessary in the fire service of today.

As this hearing process unfolds you will hear from a variety of stakeholders representing a diverse set of views and opinions. Associations and groups representing fire chiefs, firefighters, human resources departments, municipal managers, individual citizens, politicians and special interests all have specific issues which they feel are particularly relevant. Many of the positions iterated will be extreme in nature, leaning towards one or the other side, because for a variety of reasons the legislation has polarized the Ontario fire service.

Some will indicate that as a result of this legislation severe damage will be done to the fire service and public

safety will be jeopardized. I believe you've already heard that this morning. Others will have you believe that just the opposite will occur and that without this proposed legislation, the public will suffer through high costs for service delivery and inefficiency.

As fire service administrators, our primary concern is public safety and on most aspects of the legislation our views mirror those of our provincial representatives, the Ontario Association of Fire Chiefs. We firmly believe that nothing in this legislation will jeopardize the safety of the citizens, and in fact the proactive focus on prevention and public education will significantly enhance the ability of the fire service to protect those we serve.

Overall, this is a proactive piece of long-overdue legislation. It does not make any sense in the face of today's reality to argue that legislation written in the 1940s has much relevance in the 1990s. The status quo is not an option. The choice then is to achieve the balance alluded to earlier in this presentation.

In our view, this goal has been reached by the legislation. That is not to say that the bill does not require some modification in its present form. There are negatives, but we feel that they are certainly surmountable and that there is no need to throw out the baby with the bathwater. Simply changing some wording or eliminating a few clauses will result in improvement. We are confident that these problems will be clearly evident to you after these hearings are completed, and in keeping with our macro-approach in this presentation, we will not subject you to a clause-by-clause analysis.

Part IX of the bill will be the subject of intense scrutiny because it presents the greatest challenge to existing paradigms in the fire service. As fire chiefs, we, like other civic managers, must operate within the parameters of the collective bargaining process and standards of labour-management relations. We do not, under the present system, negotiate directly with the associations. Rather, in concert with the human resources departments in our respective municipalities, we act as a resource in these negotiations. Our role is to try and maintain a balance between public safety and fiscal reality, and it's a formidable challenge in today's climate.

Upon the completion of the negotiations, however, we are tasked with maintaining these relations through utilization of the resulting collective agreements. For this reason our position differs from that of the firefighter associations and the municipal managers.

While it is true that many of the issues in part IX were not raised by the fire chiefs, they will certainly impact upon our ability to manage our departments and therefore we will comment on a few of the more contentious sections of the act.

We've already heard this morning about management exclusions. We agree completely and without reservation with the management exclusion formula as presented in the bill. A management team approach simply fits the new philosophy. The skill set necessary for these positions mandates a selection process that allows for flexibility and reliance on merit and experience. Limiting these selections through prohibitive collective agreement wording is counterproductive and serves no one, including the members of the organization.



**Hours of work:** We feel that fundamental workers' rights such as hours of work should remain a component of collective bargaining and have no place in public safety oriented legislation. Their inclusion only serves to exacerbate dissension and jeopardize achievement of the many positive aspects of the bill. For this reason, section 52 should be reworded to exclude any arbitrary ability for employers to dictate hours of work for firefighters.

**Part-time firefighters:** The inclusion of the definition of "part-time firefighter" constitutes a major change which will have a significant impact on overall costs if managed properly, although there may exist a potential for abuse. Many presenters to these hearings will no doubt be quite vocal on this issue. We've already seen that this morning.

The answer lies in management which maintains the balance necessary for success. As fire service administrators, we must maintain service level and quality in order to effectively meet our mandates. The union opinion on this issue is that less trained part-time firefighters will endanger the public. This is an example of one of the extremes mentioned in our preamble.

As the people responsible for the training levels in our respective departments, it will fall to us to ensure that no person is utilized whose training level could in any way diminish the safety of those we serve. Simply stated, the level of a firefighter's training is a totally separate issue from his or her employment status.

A second argument that you will hear is that the team concept is crucial to effective and safe firefighting and that part-time firefighters, by virtue of the inconsistency resulting from their use, diminish the effectiveness of this team. It must be emphasized that no fire chief concerned with public safety would wish to replace full-time firefighters with part-time people. However, there is value and efficiency to be realized through judicious use of part-time people to maintain minimum staffing levels. We would work with the associations to ensure this balance in their use and that the level of training meets or exceeds that which is currently provided.

**Privatization:** The bill will facilitate a municipality's ability to consider different options for the provision of their emergency services. One of those options may be to offer this service to a private provider on a contract basis. While we do not believe that the profit motive has a place in the provision of emergency services, we do not see the inclusion of this ability to privatize as entirely negative. It could act as a driver for change by forcing competition.

We are confident that we could work with our respective unions to make these changes positive. If we cannot offer effective and efficient services without legislated protection, then our system is flawed. The public is entitled to make choices as to their service providers which reflect community needs. After all, they pay for the service. That is why there are different delivery models.

**Volunteer firefighters:** Volunteer firefighters render a valuable service in those communities where they provide all or part of the fire protection. High turnover rates are of concern to fire chiefs. It is important that we preserve this important component of the fire service, in part by ensuring that demands placed on volunteers do not exceed their capacity to serve. Regulations developed

under the contents of this bill should recognize and support the role of volunteer firefighters in protecting their communities.

**1110**

**Conclusion:** This legislation brings forward a break from tradition and is a very complex document. Of course there are parts of it that can be improved. We have suggested a few and this panel will hear many more throughout this process. That, after all, is the reason for the process.

Throughout our presentation the word "balance" continually surfaced. As a government, you must continually balance the needs of your constituents with those of a myriad of special interest groups. This legislation will achieve that goal and must be passed into law. Together we can improve it through cooperation and flexibility.

One cannot abandon necessary change because everyone is not 100% happy with the results. There will continue to be a strong and effective fire service in Ontario after this act becomes law; it may be different than it is today. Whether these differences are perceived as positive or negative will depend not only on the legislation but on how all of the stakeholders in the service work within the new parameters as defined by Bill 84. Reflection and moderation will be the key elements.

We, the chiefs of Ottawa-Carleton, would like to take this opportunity to pledge our support for this piece of legislation and thank you for the opportunity to present our views to this panel.

**The Chair:** Thank you, fire chief. We have one minute per caucus and we start off with Mr Gerretsen.

**Mr Gerretsen:** I'm very concerned with the one statement that you made and that is that this act is a driver for change by forcing competition. I just can't get my mind around that. We heard from the people who were here just previous to you about the excellent service that we have, and undoubtedly this is so throughout Ontario. Competition in the normal sense of the word means that you can compare it to something else. However, with the fire service, we don't have it. You either have a good service or we don't know what we're going to get.

How can you talk about competition when we really don't know, if some of this privatization takes place, whether or not the end product is going to be as good as the product that we have now? When you do compare it, unfortunately it'll be too late, when we come to the conclusion that maybe by going the privatization route, we've put so many more people at risk or the response time isn't as quick as it is now.

**Mr Richardson:** Don't get me wrong. I'm not for privatized fire services. Our point was that sometimes you need a bit of a kick in the pants to do the necessary things. If the threat of privatization enters an area, it may force two neighbouring municipalities to get together and talk about different ways of providing the service in more effective and efficient ways. Service levels will always be our concern. We're not talking about trying to compete on costs with a private company, we're talking about competing on service levels.

**Mr Gerretsen:** That's what you said in your presentation here, and just so that I'm clear on it, are you, as an



association, in favour of privatization of the fire service or not?

**Mr Richardson:** No, we are not.

**The Chair:** The government has one minute.

*Interjection.*

**The Chair:** I'm sorry, Mr Kormos. How could I have forgotten? I apologize.

**Mr Kormos:** I think we should award me double the time as some sort of compensation.

**The Chair:** You take it anyway, Mr Kormos.

**Mr Kormos:** I would have spoken up in any event. I appreciate that fire chiefs are not ad idem across the province. There's been a variety of views. Chief Ferguson from Toronto presented some views that were very much contrary to yours, and God bless.

Twice you spoke of "special interests" that would be participating in this process. You distinguished them, for instance, from our constituents because you speak of reconciling the needs of our constituents with those of a myriad of special interest groups. Once again, those special interest groups are my constituents as well.

My concern is that there seems to be consensus that this bill in many respects lowers the standard, by permitting the use of part-timers, by contemplating the prospect of privatization and opening the door yet further. My concern then is that the minimum becomes the maximum, which is a tendency that seems to exist in a whole variety of areas.

It's interesting that the bill would want to require that municipalities — because it says "shall" implement fire prevention services. On the other hand, the government would say, "Well, it's okay to open the door to privatization and permit part-time firefighters because no municipality would ever abuse its governance power by doing so." My response to that is, why was it necessary to make it mandatory that municipalities engage in fire prevention? Maybe you don't have the same difficulty with that as I do. I'm just wondering.

**Mr Richardson:** We don't see the bill as lowering standards. It's our job to maintain standards, and as fire chiefs we're going to keep doing that.

**The Chair:** Thank you, Mr Kormos. We must move on.

**Mr Carr:** Thank you very much for your presentation. One minute doesn't give us enough time, but I want to thank you for taking the time. As you know there are many people out there concerned that this bill will lower a lot of the standards. I think I can safely say on behalf of all the members we have the best fire services anywhere in the world, and it's a tribute to the men and women, a lot of them in the room, and yourselves and the great firefighters we've got.

You're saying there won't be much change as a result of it. Can you give us some indication of what you see happening when this bill passes? What, if any, changes will result?

**Mr Richardson:** It's hard in a minute to give you those results. We see the fire service becoming a little more effective and a little more efficient; a better balance than we have right now. The entire system right now is heavily reliant on arbitration processes and intervention from outside parties. We see this bill as turning that

around and bringing us back to the table with our association so that we can define the direction the fire service is taking.

We're not too concerned with part-time firefighters, for instance, because we're the ones who are going to govern how they're used, and we're going to use it judicially if we get that ability. It all comes down to management and, as fire chiefs, it's incumbent upon us to do the best we can with what we have. This bill just gives us a little better tools to do it.

**The Chair:** Fire chiefs and deputies, I thank you very much for lending your expertise here today.

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#### CANADA SAFETY COUNCIL

**The Chair:** Our next presentation is the Canada Safety Council, Emile Thérien. Good morning, Mr Thérien.

**Mr Emile Thérien:** Thank you very much for letting the Canada Safety Council present here today. I should let you know that the current chair of the Canada Safety Council is Claude Bennett, who was a long-time member and cabinet minister in the Ontario Legislature. I think one of his confrères, Garry Guzzo, is a member of this committee.

The Canada Safety Council is Canada's national not-for-profit public safety organization. Information on Canada's national safety council has been made available to you.

Focusing on safety education as the key to long-range reduction in avoidable deaths and injuries, CSC serves as a national resource for safety programs, working with and through partner organizations who fund these programs.

In the public policy area, CSC suggests, supports and promotes legislation and regulations, with strong emphasis on gaining public understanding and acceptance of such laws and regulations. An example of this is our position on fire-safe cigarettes, and you have it in front of you.

The Canada Safety Council does address fire safety issues and concerns. We recently commissioned a major national Angus Reid poll which reveals that Canadians are very conscious of fire safety. Information on that poll is also available in front of you. Canadians from coast to coast are alerted to the dangers of fires from fire safety materials and releases published and disseminated by the Canada Safety Council. It should be noted that we have developed public education materials targeted at Canada's aboriginal communities, which experience a disproportionately high incidence of fire deaths and injuries.

The council is a very strong advocate of ensuring that fire departments across this country, including Ontario of course, in this era of shrinking budgets, receive adequate funding and resources to get the job done. I'm sure this is a position shared by many individuals and organizations concerned with public safety and fire prevention.

Without question, the proposed Fire Protection and Prevention Act, Bill 84, tabled in the Legislature last October will challenge fire departments to continue to provide a most important compulsory public service efficiently and effectively.

In our opinion, the proposed legislation fails to take into account certain realities: economic, social and



political. Nevertheless, one cannot deny that some parts of the proposed legislation are very progressive and deserve support.

At this time, all organizations are being forced to justify their existence. It is incumbent on those same organizations to position their cause by demonstrating worthiness, relevance and impact. Fire departments stand tall in this regard. It is not difficult to highlight some of the past and ongoing contributions and achievements of fire departments.

First, they are very instrumental in the reduction of fires, residential, commercial and others, plus reduction of fire fatalities, resulting in favourable and competitive insurance rates. Fire departments are a highly cost-effective service.

Second, firefighters have had significant impact on building codes and fire codes.

Third, firefighters have much experience and training in fire prevention, fire protection and fire suppression.

Fourth, firefighters have a very good-guy image. They work with the MD societies, the burn centres etc. The public perception and image of a fire department is that of a humanitarian service. They will put their lives at risk at any time.

Last is the expansion in work functions and responsibilities: dangerous goods, EMS and so on. They have assumed these duties and responsibilities voluntarily and willingly.

There are major challenges facing the fire services. These include, among others, population growth, the reality of an aging population and long-term economic uncertainty compounded by high unemployment. I feel it would not be difficult to show a correlation between high unemployment and the incidence of fires — residential, commercial and all others. This certainly will have an effect on insurance rates. This raises a very important concern, namely, the effects of Bill 84 on insurance. I hope the Insurers' Advisory Organization, or IAO, appears before this committee to discuss the proposed bill and its possible effects on insurance rates, certainly a concern to all policyholders across this province.

There are particular concerns with Bill 84. The Canada Safety Council does not and will not welcome changes that will undermine and jeopardize the level of fire protection in Ontario as a result of that proposed legislation.

We are concerned that the legislation will replace full-time firefighters with part-time employees. Historically, as we all know, firefighters have been classified into two categories: professional and volunteer. Each has a very separate and distinct role. My reading of the proposed legislation is that a new category, the part-time firefighter, would be introduced. This, in our opinion, would lead to a reduction in the number of highly trained, professional firefighters, threatening the safety of both professionals and volunteers and community fire protection at large. In our opinion, the proposed bill fails to adequately define a part-time firefighter. This must be addressed. In addition, an explanation is in order as to how part-time firefighters will enhance fire protection and fire services across this province.

Without question, the proposed bill contains a number of new measures designed to improve fire prevention and

fire safety. We applaud these new measures. Some of these were based on the recommendations of 30 coroners' juries that examined fire fatalities in recent years across the province. It is indeed gratifying to see that public input was sought and incorporated into this legislation via recommendations arising from various coroners' inquests.

These provisions include: (a) a requirement, and I emphasize at long last, that all municipalities provide fire protection and public education services; (b) a fail-safe program that will give the provincial fire marshal the authority to review municipal fire protection plans, and where there is a danger, to recommend and order change; (c) allowing the province to draw up guidelines that will help local governments to prepare fire protection and prevention plans.

These provisions are sound, progressive and very good. They will help to ensure that all Ontarians enjoy at the minimum an adequate level of fire protection. However, these provisions call for a larger role for the office of the Ontario fire marshal. The question must be asked: Is that office equipped to handle the additional duties and responsibilities? This question must be answered.

To satisfy these provisions of the legislation, the office of the OFM will have to command the full respect and support of municipalities from every corner of this province. It will have to act and operate in a non-condescending, non-arrogant, non-bureaucratic fashion, but efficiently and competently. It will have to communicate and consult. It will have to develop relationships that are based on partnerships with shared interests and concerns and not on superior-subordinate ones. The will must be there to make this happen, otherwise confrontation and lack of trust between Ontario municipalities and the Ministry of the Solicitor General will prevail.

Reductions in fire losses are being realized in jurisdictions across Canada, including Ontario. There are critical factors contributing to these reductions. However, as revealed in *Fire Losses in Canada* — and I show it to you here — for 1993, the last year for which stats are available, Ontario experienced over 10,000 residential fires, and I'm talking about reported fires. Dollar losses for that year exceeded \$168 million for residential fires alone. The total number of fires in Ontario that year was 22,747. Total fire losses amounted to over \$350 million; 137 residents died as a result of fires that year and over 1,400 were injured. These, you will agree, are not insignificant figures. There is still so much to be done.

The keys to fire safety are education, prevention and protection. This strategy must include ongoing public education and public awareness, smoke detectors, periodic inspections, effective fire codes and building codes, and a government commitment to provide fire departments with the resources needed to do the job. Anything less is not acceptable. Bill 84 must in no way whatsoever compromise that level of fire protection.

**The Acting Chair (Mr Garry Guzzo):** We'll start with the third party, Mr Kormos, please. We have about a minute.

**Mr Kormos:** I don't know whether you're one of those special interest groups, but I thank you for your contribution because you've got strong credentials in this area, and others obviously, and no axe to grind other than saving lives. I suppose that is a worthy special interest.



I'm interested in the stats because you've got 1993 — the press release — showing a 3.99% increase from the year before, but then you have the 1996 press release —

**Mr Thérien:** Which is updated a bit.

**Mr Kormos:** — which shows a modest drop. We have to assume that's in large part due to the use of fire alarms and the public education in fire prevention that's engaged in. What's interesting is that clearly not all fire services were doing that, because not all municipalities were requiring it. Otherwise it wouldn't have been necessary for the government to have made it mandatory in this bill.

**The Acting Chair:** Thank you, Mr Kormos.

**Mr Kormos:** Thank you, Chair. Your timing is impeccable.

**Mr Klees:** Mr Thérien, thank you for your presentation. I notice from your About the Canada Safety Council brochure that all six of your objectives deal with the interest in promoting safety. I find it interesting, then, that that is in fact the objective of your organization, that you make comments about this bill in face of the statements made by the Ottawa-Carleton Regional Fire Chiefs — I'll read it to you in case you weren't here — "We firmly believe nothing in this legislation will jeopardize the safety of the citizens." The fire chiefs, by the way, are responsible for the hiring of the men and women on the front lines who are going to deliver that service. In spite of that, you make comments about the fact that this is a threat to insurance rates in the province; it's a threat to safety. Are you aware who hires the men and women on the front lines who are responsible? It's not the rank and file, sir.

**Mr Thérien:** No, I understand that.

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**Mr Klees:** When we have heard from the fire chiefs who say that this bill in fact will strengthen safety in the province, how can you, in your position, make the statements that you did?

**Mr Thérien:** If you heard me, we were saying that the bill must not jeopardize any of the achievements or the accomplishments, and one of our major concerns is an aging population.

**Mr Ramsay:** Thank you, Mr Thérien, for your presentation. I certainly accept your credentials and accept your advice on this and many of the points that you bring up. I would say that you brought up a concern about fire insurance rates; you're saying we might get some more information later on. Have you done any more work on that in your organization?

**Mr Thérien:** We have, but I think it's absolutely critical that the Insurers' Advisory Organization appear before this committee.

**Mr Ramsay:** Chair, could I ask the government —

**Mr Thérien:** We're talking about all policyholders across the province here.

**Mr Ramsay:** Yes. I think it's an important point. Maybe I could ask a question for the government: Have they done any impact study of Bill 84 on fire insurance rates across the province? If we could get an answer for that.

**The Acting Chair:** I don't want to take the time away from the witness.

Mr Thérien, thank you very much. You can see how much easier it is to answer questions here than with your own board. They take all the time to ask the question and don't give you time to answer. But thank you very much for your presentation.

Will you take the question under advisement or do you wish to deal with it?

**Mr Carr:** We'll be getting a reply back for you.

**Mr Gerretsen:** What's the answer? I didn't hear the answer to that.

**Mr Carr:** We will be getting an answer back for you.

**Mr Klees:** On a point of order, Mr Chairman: I think when the parliamentary assistant seeks that information, as a committee, we should make it very clear that the impact on insurance should be based on the facts of the legislation, not on the implications or the innuendo or the suggestions that are being made by some as to what the potential outcome would be. I suggest very strongly that that be based on the presentation that we heard from the fire chiefs, who are responsible for hiring and maintaining service in the province.

**The Acting Chair:** I think we can trust our staff to do that.

**Mr Kormos:** Mr Chair, let's not forget the professional firefighters who are responsible for addressing the dangerous issues onsite.

**The Acting Chair:** Thank you, Mr Kormos. That's very appropriate.

BRUCE MORGAN

JOHN PECEK

**The Acting Chair:** The next presentation will be made by Dr Bruce Morgan and Mr John Pecek.

**Dr Bruce Morgan:** Good morning, Mr Chairman, ladies and gentlemen. Thank you for permitting me to address this distinguished panel.

Why are we here? Common goals require us to examine more carefully the implications of Bill 84. As firefighting and medical professionals, we have a common objective in preventing loss of life and reducing pain and suffering. As taxpayers, like you, we also have an interest in reducing the call on the public purse.

For my part, for over 30 years I have been involved in the management of burns. In my experience, suffocation from smoke inhalation is the most likely outcome of fires and its prevention is very difficult to manage. Therefore, response time by firefighters and a disaster plan for evacuation are critical in reduction of damage to individuals due to fire, with the death rate increasing according to age, infirmity and severity. Fire drill instruction and home escape plans are of the utmost importance for all ages of the public so that fire victims may avoid confusion and waste of critical moments for safe evacuation from the fire and danger area. Thus, the education of the public is one of the vital, ongoing jobs of firefighters.

Equally important is the continuous updating of education for the firefighters themselves. This becomes obvious when we consider the many new hazardous materials in common use today, as well as the tremendous increase in electrical wiring for appliances and telecommunication systems at home and also in the workplace.



At our Belleville hospital, we do not have a large enough number of serious burn patients to justify the maintenance of a burn unit with its specially trained emergency physicians, a plastic surgeon and all the necessary 24-hour backup nursing personnel. Following initial treatment, as in any community hospital, we must refer any serious burn cases to a tertiary care centre, the closest being in Kingston here, an hour's drive from Belleville.

Since the establishment of such burn units, as in the Hotel Dieu Hospital here in Kingston, I have confined myself to reading about any new developments in burn treatment from the extensive literature now available. I hasten to add my thanks to our medical librarian at the Belleville General Hospital, Cheryl Martin, who has surfed the Net for me to add the latest information available.

I will review some of this material briefly in the course of my remarks, not to impress you with the wonder of modern medical science, but rather to emphasize to you the urgent need for education of the public by the firefighters, and of the firefighters, for the prevention of fires; the mandatory availability of an instant response to an alarm, rescue and/or treatment of victims by a professional firefighting team; and the long and painful periods of specialized hospital care required in serious burn care, not available in home situations, even with professional home care attendants.

Those patients who survive frequently suffer lifelong negative effects on their lives, as do their families, despite modern advances in treatment and surgery. I'd like to emphasize too, there's the needless public, as well as private, expense resulting from unnecessary or preventable accidents and fires, with their tragic loss of life or lifelong disabilities.

Before proceeding further, perhaps I should differentiate between the degrees of burns. A first-degree is that commonly associated with sunburn, which is painful but superficial and does not usually blister or scar. A second-degree burn does blister, is exquisitely painful, such as resulting from scalding liquids. When infected, it can cause significant scarring, which I have seen in my lifetime. A third-degree burn is the most severe caused by flames. It is painless to touch because the nerve endings are destroyed. If not removed, the skin will separate spontaneously and almost invariably will require skin grafting, another long, painful and expensive act.

As you know, and I as a doctor certainly know, the major driver of governments today is to reduce costs, and in the case of health care, to reduce costs through downsizing hospital admissions and stays. The adverse effect of this policy is that of increasing unemployment of nurses and other hospital personnel at a time when our population is aging and requiring more and more expensive treatment for heart disease, injuries and cancer, not adequately served with home care alone. This compares with the government's efforts in Bill 84 concerning firefighters.

Medical articles demonstrate that the medical profession is sympathetic and aware of the need for economic measures to reduce costs. One article recently published suggests that patients with extensive secondary

burns may be treated with a new plastic called biobane, which results in patients being discharged earlier, thus relieving expensive hospital beds. Nevertheless, patients suffering third-degree burns still require the specialized care given in one of the 25 to 30 burn units in Canada, presently caring for 25 to 73 burn patients per 100,000 population in 1991. Mortality was reduced from 5% in 1981 to 3.5% in 1991. This figure indicates again that professional expertise pays dividends.

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This point is emphasized by the firefighters in their professional role in early fire and burn-and-fire management and their education of the public in prevention. For example, medical journals from elsewhere suggest that the proper handling of petrol in the home can markedly reduce the number of severe burn accidents. It is too late for burn victims to learn this after the fact.

In medicine we also accept the paramedical personnel as a necessary and valuable part of the team, but we do not expect health care aides, however well trained, to perform surgery in an emergency. Similarly, professional firefighters cannot accept volunteer firefighters as equals in fires where every minute counts, as Bill 84 seems to suggest.

Unlike most serious medical procedures in elective surgery, where planned performance is carried out, a fire obviously is not in the same situation. The management of a fire must be in the hands immediately of a trained professional firefighter as the leader of the team. A volunteer firefighter might be able to perform this function under certain less serious situations, but the unknown or unexpected factors arising, even from a seemingly less serious fire, can lead to disastrous consequences at any time, but especially with lesser-trained personnel.

My support for our firefighters has been drawn from these comparisons between their profession and mine.

Bill 84, it is feared, may bring changes through cost reduction which will reduce the efficiency and response time of our firefighting teams at the expense of life, property and the happiness of citizens who might otherwise be healthy and contributing members of society, in return only for an apparent and temporary monetary benefit. That's one firetrap we cannot accept.

In conclusion therefore I urge the decision-makers to recognize the logic of my remarks, as I firmly believe them to be reasonable, even though I as a taxpayer am sympathetic with the need to reduce costs where possible. I trust that the priorities of safety, efficiency and long-term cost-benefits will be uppermost in the minds of those debating any supposed benefits of Bill 84. I thank you for your attention.

**The Acting Chair:** Thank you, doctor, for your presentation. We have approximately a minute and a half for each party. I'm sorry, Mr Pecek, were you going to add to this?

**Mr John Pecek:** Yes.

**The Acting Chair:** I apologize, sir. Please proceed.

**Mr Pecek:** Thank you. Good morning. My name is John Pecek and I'm a Belleville professional firefighter. I hold the rank of acting captain within that department. I oppose Bill 84. If Bill 84 becomes law, it will change the rules for fire safety in our community. Firefighters



from across this province are greatly in opposition to some of these changes. Quite clearly, Bill 84 threatens to undermine the speed, experience and teamwork that saves lives in an emergency. Some of these changes are definitely for the worse.

As an example, Bill 84 will make it possible to understaff firehalls and only call firefighters to respond when there's an emergency. That may or may not save money, but it could be too late to save lives. Calling in firefighters after an alarm slows response time. This often results in too little too late. Response time is critical, as a fire can double in size and intensity with each passing minute. That's why coroners' juries almost always identify response time as a key factor in saving lives, yet response time is exactly what Bill 84 will sacrifice. Can we really risk a delay when lives are on the line?

Under Bill 84 full-time professional firefighters can be replaced with part-time people. Never before in Canada have we reduced the level of a full-time professional firefighting force into becoming just another part-time job. If we look at our past, governments took great pride in establishing full-time departments. Many of these came about as a positive forward progression, having begun as a part-time volunteer department. How can it now be a good idea to go backwards? Quite simply, Bill 84 will expose our communities, which now have a full-time professional fire department, to a lower standard of protection when an emergency situation occurs.

Today we are calling on the government to listen to professional firefighters and amend Bill 84. Your firefighter knows the grief, the agony and the suffering an emergency can bring about. It's our job to reduce or, better yet, eliminate that from happening. The obligation of a firefighter to all citizens simply states, "For the protection and preservation of life and property." Bill 84 makes fulfilling that obligation more difficult than ever.

**The Acting Chair:** Thank you, sir. We have now less than a minute.

**Mr Carr:** Doctor, as you know, the contentious part of this bill is part IX. The rest of the bill I think everybody is pretty much pleased with. Not to put words in their mouths, but I think even the opposition is pleased with the rest of it. It's just part IX. Taking out part IX, the labour part, are you pleased with the rest of the bill from what you've been able to see?

**Dr Morgan:** I don't have that much familiarity with the bill to be able to answer your question, sir.

**Mr Carr:** Thank you very much. Good luck.

**Mr Gerretsen:** I think you were right on, doctor, when you said that the major driver of the government is to save costs here. Of course in a place like Kingston, where \$28 million is being added on to the property tax rolls as a result of the downloading, there will be pressures on local council to find savings. One of the savings they'll be able to find is in this area by hiring part-time people, volunteer people and what have you. They may not do it right away, but it will happen and it will allow them to do it.

I think what's very interesting is your comment that, yes, there may be some savings that way — public safety is going to be at risk — but in effect we may end up paying more because people will be in the hospitals more,

at a higher cost, and as we've already heard from the earlier presenter, insurance rates may go up as well, because obviously there won't be the same quick response times and fires will cause greater damage. Do you agree with that assessment?

**The Acting Chair:** Doctor, I'm afraid there's no time for your answer. That's why Mr Gerretsen is no longer practising law and why he's in politics.

**Mr Gerretsen:** Just for the record, I am still practising law.

**The Acting Chair:** I wonder how much longer it can continue.

**Mr Gerretsen:** In fact you're no longer a judge.

**The Acting Chair:** Mr Kormos was well trained by some very disciplined judges in his day. Yes, sir. You've got about 40 seconds.

**Mr Kormos:** Doctor, I appreciate your comments. Your medical colleagues from Wellesley Hospital, from the burn unit there, addressed the issue in a very similar way with a little bit different perspective, and I hope you're not considered a special interest group. All you're concerned about is saving people's lives and protecting burn victims from the tragedy.

**Dr Morgan:** I hope so, having seen so many of them.

**Mr Kormos:** Mr Pecek, as a firefighter —

**The Acting Chair:** I'm sorry, Mr Kormos. I apologize, sir, but I want to thank you —

**Mr Kormos:** — what motivates the chiefs of fire departments to be —

**The Acting Chair:** Excuse me, please. Thank you kindly. Mr Pecek, Dr Morgan, thank you kindly.

**Mr Gerretsen:** I move that the Chair take over again, the real Chair.

**The Acting Chair:** I've been trying to get him back, John, I assure you.

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JOAN LEVY EARLE

SALLY NICHOLSON

**The Acting Chair:** Joan Levy Earle and Sally Nicholson. Good morning, ladies, and thank you for attending. Please proceed.

**Ms Joan Levy Earle:** My name is Joan Levy Earle and I live in Cornwall, Ontario. Appearing with me is Sally Nicholson, who will speak directly after me.

I do appreciate your taking your time in the matter of Bill 84. Like the birthdates of our children, we never forget the dates of our fires. A fire is a traumatic and life-changing experience. The sound of a fire engine on its way to a fire never fails to remind me to pray for the safety of those involved, both the firefighter and the victim.

My first fire happened on Tuesday, February 10, 1981. There was a knock at the front door of my home at 10:30 that night and a friend told me that she thought my art studio was on fire. My studio was located in a large building just a block away from my home, and when I rounded the street corner, I saw a fireman on an aerial ladder breaking into the front upstairs window of my studio. This older building also housed about 40 tenants, a bank, photo shop and two stores. Because of the quick



response of the fire department, only my facility received damage. Although it was a total loss for me, fortunately the fire only gave minor smoke damage to the rest of the building.

Vandalism was determined to have been the cause of this fire, as there had been a forced entry into my studio and a burglary call had been received by the police just prior to the fire call. It took a well-trained and experienced firefighting team to get that fire under control so quickly; otherwise, it could have meant economic disaster for many of the tenants, especially those without fire insurance on their apartment contents.

My second fire experience occurred more recently on Valentine's Day of this year, 1997, just two months ago. My husband and I were awakened about 2 am by flashing lights outside our bedroom window. We live over our business, which is a stationery-bookstore. When we saw the police put a barrier across the intersection a block away, we suspected that this was not a false alarm.

My husband went out first to get details, and the fire captain told him to evacuate our family and to take our valuables because this was a serious fire and our building was being threatened. We spent the next five hours on the street, watching and praying that this intense fire with 30-foot flames just two doors away would not destroy both our home and our livelihood. Unfortunately, a few neighbouring businesses located on the ground floor of the historic three-storey hotel were not as fortunate. Several businesses were destroyed, but the fire was contained to that one large building. About 10 other downtown businesses, all attached to each other, were protected. The fire was under control by morning, but the firemen were still working at it for another full day.

This recent fire was proof to me of the need for firemen to be at the ready, prepared to be awakened and physically capable of enduring hours of firefighting through all the elements, even ice and snow, to put out a fire. I am confident that our fire department's quick and dedicated response protected our downtown business from being destroyed.

There is such a demanding physical effort required by a fireman to sit on a curb in subzero weather and hold a heavy hose for hours on end. I also observed the stamina and determination to see a job completed that is a major part of their role. When I watched several of these men put on heavy gear to go into the burning building, I realized just what a unique profession firefighting is, and because it is a unique profession, I feel that firefighting should be regarded by both provincial and municipal governments as requiring special consideration.

I am here today to caution you to protect this profession from the folly of simply being a service contract to be put out for tender. The fire department should be community-based with a community conscience. Section 41 of your bill may open the door to privatization and, in my opinion, that would be a mistake.

The job of fireman, like that of a policeman, is not a career that suits everybody. It is also not a job that can be contracted out to the lowest bidder. Yes, we're living in tough economic times, but we can't lose sight of reality. My job is in retail and the staff of our store has been reduced this year in order to cut costs of operation.

Our business will survive in spite of short-staffing because our customers usually don't mind waiting for service on an especially busy day.

An understaffed or poorly trained staff in a fire department could result in the loss of human lives and personal property. It is admirable for a provincial government to give a municipality more control over its own destiny, but I feel that it is the responsibility of the provincial government to regulate firefighting in such a way that a naïve city council will not have the authority to shortchange the community. Severe cost-cutting measures may hamper efficiency and the ability of a fire department to handle quick response. I suggest that you protect municipalities from being able to hire part-time firefighters who may not have the training to satisfy the community's needs. We deserve a full-time, well-trained team effort on every shift.

As a member of the Cornwall business community paying unrealistically high property taxes, I would like some of those tax dollars to provide me and my family with first-class fire protection. Just like the fire insurance that we all pay and hope we never have to use, let us be insured by a well-staffed, well-trained, full-time fire department and pray we will never have to dial their number.

Thank you very much for the opportunity to express my views.

**The Acting Chair:** Thank you. Ms Nicholson.

**Ms Sally Nicholson:** Hi. I have been a resident of the city of Kingston for 38 of my 49 years. I am a concerned citizen. I have had some exposure to fire training and the trauma others have experienced due to a fire, through work experience on a mine rescue team in northern Saskatchewan and through my volunteer work. I was a volunteer firefighter. When you experience a fire, you never forget it.

Are we willing to sacrifice our families to save a couple of dollars? I don't mind paying taxes for proper emergency services. We should stand together to keep our fire services to the standard that they are presently at. The figures show that it only costs approximately \$100 per annum per person for our emergency fire services. I believe all of you would agree that our lives are worth that.

A fire doubles in size and intensity with each passing minute.

Kingston has approximately 170 high-rise buildings, five major hospitals, being Hotel Dieu, KGH, Rideaucrest, St Mary's of the Lake Hospital and the Kingston Psychiatric Hospital, along with our college and university. Because of that, our firefighters need different types of training than is required for fires in rural areas and/or the townships.

Response time is a key factor in saving lives. With good response times, I have seen firefighters save humans, animals and homes. The current system promotes teamwork, which is vital during a fire. At the present time, there is a response time of approximately three minutes. However, if we go to volunteer or part-time firefighters, there will be a drastic change in the response time. Firefighters would have to be called in from work, home or wherever they might be and have to



attend the station first, then head for the fire scene. On top of that, it is normal to experience a large turnover when working with volunteers. I know this because I have belonged to many volunteer groups. Therefore, the basic training would be constantly required and there would be a lack of continuity.

Due to the history of excellent response time by our fire department, we were able to get defibrillation in our community. The Kingston fire department attended 2,400 calls last year; the township, which has volunteer firefighters, attended to 500 calls. That's quite a difference.

With a delay in response time, fewer lives and properties will be saved. Property insurance could possibly skyrocket for everyone. We are also going to cut the fire service by leaving ourselves vulnerable to foreign investment. Only 1% of emergency services in the United States are privatized. This leads me to believe that privatization is not the most effective service or their preference.

Our firefighters not only care about extinguishing the fire but also care about the victims and call in assistance from other agencies to assist the victims of such a traumatic experience. Victims are assisted by helping them find warmth, shelter, food and support. Due to excellent training and experience, our firefighters are up to date on what is available to help victims of fires in our city. There are agencies that provide emotional support and referrals to fire victims and have an understanding of what they may be experiencing; they are often used by the department.

Keeping our fire engines mechanically fit is also a high priority, since downtime is unacceptable and vital; this may well be threatened if we go to part-time or volunteers.

I ask some of you to visit the burn unit of the hospitals and speak with some of the doctors and nurses about the fire victims they have seen. I have seen some victims of fire, and it's disheartening. We must be empathetic towards victims and protect our families with the expertise of properly trained firefighters. Please do not wait until someone close to you or you yourself have to experience the problems that may happen with Bill 84. All I ask is for you to care, do your research and listen to your heart. Please remember that speed, experience, teamwork and excellent preventive maintenance are what save lives.

Thank you very much for your time.

**Mr Ramsay:** Thank you very much for your presentation. I'm really pleased that you've brought to our attention the fear of what a privatized fire department may do to this area. The government is saying, "We're not encouraging municipalities to do that," but I look at Bill 84 as really passing on a loaded gun to our municipalities, and what the government is saying is, "If you can't take the fiscal pressure we're putting on you through all our downloading, here's a tool you can use" — this loaded gun — "to put down your fire department and make the changes you might see to be necessary."

I agree, as stated in both of your presentations, that this should be a provincial concern, absolutely, a very

strong provincial concern, and that we should have in this bill an amendment that would forbid the privatization of firefighting in Ontario. I'm glad you brought that forward. In the Liberal caucus, we're going to be pushing for that in the coming weeks.

**Mr Kormos:** Thank you to both of you. You've brought perspectives to this that are very important, because in addition to the firefighting we're talking about firefighters, these women and men, being there in incidents of heart attacks, strokes, falls, motor vehicle accidents. The response time is as crucial in those areas as it is in a firefighting scenario. Last week in Toronto we learned about how effective and important response time is when you're going to do CPR and how, seconds literally count and make the difference between survival and a fatality.

I'm looking at data that talk about the need not only for response times but response times with sufficient staffing, because if firefighters are being sent out two and three at a time to the sort of fire we heard about from the young family that was here a couple of presentations ago, again, response time being there, inadequate support is similarly going to diminish the firefighters' ability to literally save lives.

**Mr Carr:** Time is too short, but we really appreciate that. I don't know if you're aware, but right now if a municipality doesn't perform, there isn't anything the province can do. This bill gives the fire marshal more power to step in in a case where there's any abuse by any municipality. Fortunately we haven't had that up to this point in time. But it does give the fire marshal more authority and power than is presently there to be able to step in in an instance where a municipality doesn't do a very good job. Are you in favour of that provision allowing the fire marshal to step in if a municipality has a problem in a particular area?

**Ms Levy Earle:** Who are you addressing it to?

**Mr Carr:** Either one; whoever feels comfortable, or both of you if we have time.

**Ms Nicholson:** I would want to have time to think of the pros and cons of it before answering that question.

**Ms Levy Earle:** I would simply say that there are many features of this bill that are excellent. But there's no such thing, I'm sure you all know, as something that's already perfect. That's the reason you have hearings. I'm sure there are changes that could be made, but there are probably some very strong assets to the bill.

**The Acting Chair:** Thank you very much, ladies, for your presentations.

We now stand adjourned till 1 o'clock.

*The committee recessed from 1204 to 1305.*

#### CITY OF KANATA

**The Chair:** Good afternoon, ladies and gentlemen. Our first presentation this afternoon will be made by the Kanata fire department, Fire Chief Gord Kemp. Welcome, Mr Kemp. We have received a written presentation from Mr Kemp, and he has 15 minutes starting now.

**Mr Gordon Kemp:** Good afternoon. My name is Gordon Kemp. I'm presently the director of protective services and fire chief for the city of Kanata. I'm also a



member of the board of directors for the Ontario Association of Fire Chiefs.

Bill 84, the Fire Protection and Prevention Act, is a well-balanced approach to effect change and amalgamate several complex and dated pieces of legislation. The Ontario government is showing positive and appropriate leadership in the development of a public fire safety policy. First let me say that I am in support of the positions put forward by the Ontario Association of Fire Chiefs and the Ottawa-Carleton regional fire chiefs.

The proposed legislation is directed towards fire prevention and public education, and this is the direction the fire service should be heading. This bill provides the flexibility for municipalities to deliver the appropriate level of fire prevention and protection in each community. While the bill makes it mandatory to establish fire prevention and public education programs, it also endorses and provides for several flexible means of providing fire suppression if a municipality deems it necessary. The emphasis of the legislation reinforces the current fire service practices and will certainly enhance and improve public safety.

Overall, this is a proactive piece of long-overdue legislation. It does not make any sense in the face of today's realities to argue that legislation written in the 1940s has much relevance in the 1990s. Again, the status quo is not an option. Bill 84 addresses some areas of the current legislation which certainly need revisions and updating. It provides for standards to be established by the Ontario fire marshal's office and gives municipalities several choices by which to provide the protection they deem necessary for their particular jurisdiction. The bill allows for the Ontario fire marshal to recommend a defined level of protection where it is deemed the existing level is not acceptable to ensure public safety.

There are only a few parts of the bill I would like to comment on in particular. In the area of management exclusions, one of the important changes being recommended in Bill 84 is that those managers who manage or supervise unionized staff not be members of the same union. At the present time, everyone except for the chief and deputy chief are members of the firefighters' union. This inhibits the organization in establishing a true management team with which to manage the department.

An example of this happened just last week in Kanata. Luckily our deputy chief recently moved on to another job in the province. As a result of this one vacancy in the management team, it became necessary to have the manager of administrative services from the community and recreation services group sit on a selection committee for probationary firefighters. There was no one else from the fire department who was allowed to sit on the selection committee for firefighters.

The bill would provide for the exclusion of present managers and supervisors from the union and allows for the selection of future managers on the skills set necessary for the position without being limited through prohibitive collective agreement wording. For an organization which provides around-the-clock service in something as important as fire protection, it only makes sense that the direct supervisor on duty would not be subject to supervising fellow union members and, by extension, be subject to union policies and pressure.

Other municipal service groups and departments have had managers and supervisors outside the bargaining unit for many years. By including the managerial exclusions concept of the Labour Relations Act, the bill provides both management and unions the same level playing field as all other unionized workplaces.

In the area of collective bargaining, Bill 84 has made some changes which have been long sought after by municipalities. The addition of the step of conciliation before proceeding to binding arbitration allows for a third party to try to effect a collective agreement before the costly step of proceeding to arbitration.

The inclusion of factors which an arbitration shall take into consideration now include the employer's ability to pay; the extent to which services may have to be reduced if current funding and taxation levels are not increased; the economic situation in Ontario and in the municipality in particular; the comparison between firefighters and other comparable employees within the municipality and public sector; and the employer's ability to attract and retain qualified firefighters. These factors are certainly a lot more relative when establishing a firefighter's salary than some of the factors that have been used in the past by arbitrators.

In the area of part-time firefighters, the definition of a part-time firefighter is included, which will have a significant impact on overall costs without compromising the quality or level of service. Many other professions, such as teachers, health care workers, tradesmen and municipal government, have utilized part-time staff who are qualified to perform the job, the only difference being his or her employment status and the number of hours of work. A person's qualifications or training is a totally separate matter.

#### 1310

As a fire service administrator who manages the mandate of council, there would be nothing gained by me or council by utilizing unqualified or poorly trained firefighters of any type. However, there is value and efficiency to be realized through judicious use of qualified part-time people to maintain minimum staffing levels in the case of sick leave or vacation. Instead of utilizing the expensive practice of paying time and a half to bring back firefighters on overtime, the municipalities would be able draw upon a pool of qualified part-time firefighters.

The bill facilitates a municipality's ability to consider different options for the provision of their emergency services. Some of the options are automatic aid, nearest fire station responds even if it is outside the municipality, contracting the service to a private provider or other municipality and even considering if the service will be provided at all. There has been no restriction, except in collective agreements, to considering these options in the past. The council of the municipality, which represents the citizens, should be entitled to make the choice as to the service provider which reflects the community's needs.

There has never been any serious consideration of an alternative method of providing fire protection in Kanata or any other municipality, to the best of my knowledge. It is my belief that the taxpayers of Kanata and Ontario



are provided an excellent level of fire protection as well as prevention and education. The utilization of professional on-duty, part-time on-duty and volunteer on-call firefighters is an efficient and cost-effective manner of providing the protection which we have come to expect and are receiving in Ontario.

The need to define the position of a fire chief in law has been a concern of fire chiefs for some time. In this day and age of liability and responsibility, this definition is essential. The fire chief is the individual who has the expertise to provide professional advice on fire-related matters to the municipal council. Ensuring that the appropriate duties and responsibilities are outlined and provided in law will protect the public and the fire chief. The explanation of authority, duties and responsibilities will also improve the ability of the fire chief to manage the delivery of fire protection and prevention programs for a municipality.

In conclusion, Bill 84 is legislation which brings forward a break from tradition and gives a municipality the ability to determine the proper level of fire protection and prevention it deems necessary for the taxpayer. It gives the council the flexibility to determine the method of providing the service. There is nothing in this bill that would inhibit the provision of the proper level of public safety to the residents of Ontario, and I urge you to pass Bill 84, the Fire Protection and Prevention Act, into law as soon as possible. I want to thank you for this opportunity to present my views.

**The Chair:** Thank you, Fire Chief Kemp. We have two minutes per caucus.

**Mr Kormos:** Thank you, chief. I appreciate that you qualified "part-time" as "part-time on-duty," because you know some of the concerns that have been raised about part-time is that they would be used on an on-call basis to accommodate understaffing of a fire department. I trust you reject that.

**Mr Kemp:** Yes.

**Mr Kormos:** You also make the proposition that nothing would be gained by a chief or by council by utilizing unqualified or poorly trained firefighters. Again, that's an argument that's been made counter to the opponents to this legislation. Would it similarly be the case that there would be nothing to be gained by a council or a chief by understaffing?

**Mr Kemp:** True. A council and the fire chief are responsible to provide the proper level of service for that community.

**Mr Kormos:** Understaffing is rife among municipal fire services across Ontario, isn't it?

**Mr Kemp:** No, I don't agree with you on that point.

**Mr Kormos:** Do you agree with the Ontario fire marshal's study of 1993 that says that a mere three-person crew is very limited in its firefighting capabilities, including the conduct of interior-suppression or rescue operations?

**Mr Kemp:** Yes, I agree with that.

**Mr Kormos:** So you would never send a three-person crew out of your fire department, I trust.

**Mr Kemp:** The level of service that the municipality deems and determines it wants to deliver is the level of

service for that community. If it doesn't entail a five-man pumper, then that's the decision that council has the jurisdiction and the responsibility to make.

**Mr Kormos:** So councils could and would authorize crews of three.

**Mr Kemp:** Yes.

**Mr Kormos:** Notwithstanding the Ontario fire marshal's study of 1993.

**Mr Kemp:** The Ontario fire marshal's report of 1993 clearly states that they would be limited in what they would be able to do. If the council determines that's the limitation it wants to put into it, then I believe it should be free to make that choice, knowing full well that the crew of three or less will be limited in what it will be able to do.

**Mr Kormos:** But they're putting lives at risk.

**Mr Kemp:** No, I don't believe they are putting lives at risk.

**Mr Kormos:** You see, the Ontario fire marshal says that a three-person crew cannot safely accomplish, as I say, interior-suppression or rescue operations, the establishment of a water supply from a static source within a reasonable time limit, deployment of backup of protection lines and ventilation operations requiring access to the roof. I disagree with you in that regard. It seems to me that a council that would permit that is putting lives at risk.

**Mr Klees:** I'd like to just follow up on Mr Kormos's point. Given the scenario Mr Kormos brought to your attention, wouldn't it, then, be helpful to have some part-time people available to backfill that requirement, to move it from a three- to a five-man unit?

**Mr Kemp:** Yes. That would be a responsible and cost-efficient way of being able to move from a crew that is too small to a crew that you wish to keep on duty all the time. In order to have a minimum crew of three, you would have to have on staff a crew of between four and five in order to keep at your minimum staffing level.

**Mr Klees:** Mr Kormos perhaps wouldn't understand the word "efficiency," and that's why this province is in the mess it's in today.

I'd like you to comment —

**Mr Kormos:** I understand fires that kill six in a family. Don't talk to me about efficiency.

**Mr Klees:** Mr Chair, I didn't interrupt Mr Kormos.

**The Chair:** You have the floor, Mr Klees.

**Mr Klees:** I'd like you to comment, if you would. The campaign we've seen launched over the last number of weeks against Bill 84 refers almost exclusively to the issue of safety. The bill largely supports the need for improved safety and has many provisions around that. Would you agree that the real objection to this bill from the association is one based on labour issues and not safety?

**Mr Kemp:** Yes, I would agree with you. I believe the two are getting mixed up and safety is being used to justify labour issues, which should be kept separate and off to the side and dealt with as labour issues, not as safety issues.

**Mr Klees:** Part of the benefit of this process is to ensure that we bring some clarity to what the issues



really are. I think it's important for the public to understand that this bill very strongly enhances the safety of firefighting in this province.

**Mr Ramsay:** Chief, I'd like to follow up on some of what Mr Klees was saying. You just made the comment that you don't think safety should be mixed up with labour relations issues. Then why is it you're supporting a bill where the government has done that very thing? They have mixed up labour relations with a very good safety and fire prevention bill. That's the error and the flaw in this bill.

1320

*Applause.*

**The Chair:** Not everyone may have been here this morning. For those who have just arrived, demonstrations in the audience are not permitted. I do not have the facilities to eject one person for causing a demonstration, which includes applause. Therefore, my remedy is to clear the gallery. I would be very reluctant to do so but I will if that type of behaviour continues.

**Mr Kormos:** It wasn't them, Chair, it was me applauding.

**Mr Ramsay:** Chief, that's really the crux of this whole thing, because as you have said, and I agree with you, there are many good aspects of this bill. I think we could get every member of the Legislature to give immediate approval to this bill if we deleted part IX of that bill so we could work on that in cooperation with everybody involved. But what the government has done — and I see that part IX as being a poison pill to a very good act — is mixed labour relations with safety and prevention, which we all should be very concerned about. The government has done and you're supporting exactly what you said shouldn't be done.

**Mr Kemp:** I don't agree with you, because I believe they belong in the same bill, but when people debate the labour relations part of it, they should debate the labour relations part of it, not debate the labour relations part and the outcome is the safety part of it, because that's not true; there's nothing in the labour relations part of it that reduces staffing or compromises public safety in any way. All the labour relations issues in part IX deal with are the labour relations issues.

Those people who are against the bill are against the labour relations issue, but I haven't heard the debate take place on the labour relations issue. They keep throwing in that it's a safety issue that's being compromised by the labour relations. The labour relations issues are issues in themselves and should be debated on that aspect only; don't complicate them.

**Mr Ramsay:** There is a relationship. We've just talked here about the use of part-timers, and you talked about supplementing, say, a three-person crew and then bringing in some part-timers. Would you say today that supplementing, say, a three-person crew with a couple of part-timers would be as safe as a full-time permanent crew that goes out on an emergency call?

**Mr Kemp:** Properly trained and qualified, they would be in the same position as ambulance operators, as teachers. There are lots of professions that use qualified and properly trained part-timers to keep their staffing at the levels they want to have on duty. I can't see where firefighting is so different than other professions.

**The Chair:** Fire Chief Kemp, thank you very much for your presentation here today.

DIANE DALPEE  
MURRAY WORKMAN

**The Chair:** Our next presenters are Diane Dalpee and Murray Workman. Good afternoon to both of you. You're going to be sharing your 15 minutes, I take it. I'd ask you to proceed.

**Mrs Diane Dalpee:** My name is Diane Dalpee, and I'm from Belleville. With me is Mr Murray Workman, who will be speaking following my presentation. I would like to take this opportunity to thank you for allowing me to voice my opinion on Bill 84.

My husband is a full-time firefighter and has been for 20 years. He knows his fellow workers as well as his own family. During an emergency they work as a team, knowing the other person's next move and thoughts. This takes experience. Since he has been on the department, he has been personally involved with five victims dying in a fire; three of them have been children.

My husband's first experience with fire and death was in 1960, when his home burned outside of Windsor, claiming the life of his mother, father and youngest brother, who was nine. An older brother was home at the time but escaped. However, it has left him scarred inside and out.

I myself am an assistant administrator of a nursing home. Our home has three storeys and 59 residents. Of these 59 residents, 44 are in wheelchairs. On our evening shift we have five staff members, and on our midnight shift we have four.

Every three years, with the cooperation of the fire department, we conduct a complete evacuation of our home, which has been a very successful learning experience for all involved. It is the teamwork that makes it successful. In the fall of 1993 we had a planned evacuation with the fire department. In October of the same year we had a gas leak from the furnace. Under the direction of the captain of the fire department, a decision was made to evacuate the home. In 27 minutes the home was evacuated of 47 residents. This shows that with the department manning full-time firefighters who keep themselves familiar with high-risk areas, seconds can save lives.

If Bill 84 is passed, I have great concerns for the safety of my husband, his fellow workers and the 59 residents plus staff whom I owe a responsibility to. Everyone's greatest fear is fire. My staff presently have a comfortable feeling that the fire department is operating with full-time staff and that all emergency vehicles will respond immediately. Take this away and I don't want to think of the outcome.

In concluding, I would like you to take a hard look at Bill 84 prior to passing it. Please don't take away the high standards and the teamwork of our professional firefighters and add fear for people like me who are responsible for the elderly and the disabled.

**Mr Murray Workman:** Good afternoon, Mr Chairman and members of the committee. My name is Murray Workman. I'm a retired school principal with 35 years'



experience and have served the city of Trenton as an alderman on city council since 1980. I'm here to provide a municipal perspective, as I see it, to Bill 84 and specifically part II, section 2, and that's what I want to focus on.

This section does two things, as I read it. It mandates the provision of public education in fire safety — and I think that's a commendable part and a strong part of this particular bill — but then it turns around and becomes permissive in providing the services such as firefighting. This permissiveness allows options to municipal councils that will provide savings in fire department costs, but in doing so could dangerously lower the safety of our citizens and lower the effectiveness of our firefighters. I think you've heard during the course of the day to this point that the fire response time is the critical aspect, the critical factor in respect of firefighting.

With Bill 84, the provincial government had the opportunity to mandate firefighting services that could be cost-effective but provide at the same time the highest level of service — and here's the important part — protection to our services and our citizens. Gentlemen, the opportunity was missed when it became permissive. There must be a balance between cost saving and firefighting efficiency. Bill 84, in my opinion, does not provide this balance; its focus is on cost saving. We have, at the municipal level, mandated police services, and I believe logically that firefighting services should also be mandated. Again, I'm emphasizing firefighting services.

The last point I'd like to make is that this government has been aggressive on many fronts, particularly in the last year and the last few months. We have experienced that aggressiveness in the cost saving and the downloading to municipalities on the premise of providing cost-efficient and effective services in areas such as health, education and social services. It is my opinion that it is not aggressive at the same level with the issue of firefighting. It does not adequately address the issue of providing safe and effective firefighting protection to the citizens, and in the end they will be the losers.

1330

**Mr Carr:** Thank you very much for the presentations from both of you. As you may or may not know, right now the province and the fire marshal don't have any powers if a particular municipality like Trenton wasn't providing proper services. This bill gives the fire marshal broad powers to step in in the event that a municipality isn't providing fire services. I take it you agree with that section?

**Mr Workman:** I'm looking at part II, section 2, where it says, "A municipality shall (a) appoint a community fire safety officer...or...establish a fire department." That's the part that bothers me. That's why I focused on that section, because it is permissive. The first part, part II, subsection 2(1), regarding the public education with respect to fire safety, I think is commendable, and enforcing that and strengthening it is a move in the right direction. But then you turn around and say the municipality may or may not have a fire department.

In firefighting, it is my belief, and that of those on the council I serve and the citizens in town, that the response time, the first two or three minutes of arriving at a fire

are the critical ones. You have to have a department. You cannot depend on a strictly volunteer department to provide that kind of response time.

**Mr Carr:** I understand you might not have had a chance to read it, but subsections 2(7) and (8) do give the fire marshal, and the government through the Lieutenant Governor in Council, broad powers now to step in on a municipality. They don't have that now. I just wondered if you as a municipal politician agree with that section which says, in essence, subsections (7) and (8), if the fire marshal deems it to be a problem, he can step in and make recommendations to the council.

**Mr Workman:** What will have to happen, sir, for that problem to come to light? That's my problem.

**Mr Gerretsen:** Murray, would you agree with me, as a municipal councillor, that with all the downloading taking place right now — and we've heard it from all over Ontario; here in Kingston it's over \$28 million if the same level of services were provided etc — there's going to be a great temptation for councils to want to save money. They don't want to pass a 25% or 30% tax increase to the local taxpayers. They will be very tempted to try a lot of these different manoeuvres with respect to firefighting.

**Mr Workman:** Mr Gerretsen, that's exactly why I said the bill missed the point on mandating fire protection services, for that very point: There is the temptation. I would say without any problem at all that municipal councils are responsible and responsive bodies but, and particularly in today's milieu, we have that problem of the downloading and the issue of property tax and so forth, and that very point you raise is the fear.

**Mr Gerretsen:** If I could just raise one other point, it's interesting that this government is great on coming up with long names for bills. This bill is called An Act to promote Fire Prevention and Public Safety in Ontario. It doesn't talk about firefighting at all.

Just to take issue with Mr Carr, when he talks about subsection 2(7), it says, "The fire marshal may monitor and review the fire protection services...." It's not a mandatory service at all, sir.

**Mr Carr:** It's a stronger provision than we have now, John, and you know it.

**The Chair:** Mr Gerretsen has the floor.

**Mr Gerretsen:** With all due respect, the government members here have been suggesting that the fire marshal is going to have much greater power in the future. The fire marshal may want to get involved, he may monitor these situations, but he may also decide to ignore it. He's got no more power than he had before, sir.

**Mr Carr:** He can't do it now.

**Mr Kormos:** I appreciate your reference to subsections 2(1) and (2), sir, because it would have been oh so easy, if that were the government's intention, to have included fire suppression in subsection (1), which outlines the mandatory services. There's something very telling in the failure to do that, and very clearly, putting it into subsection (2), which, as you say quite rightly, is permissive.

You were here a little earlier when some government members tried to say, "Oh, the labour issues are separate and apart from the rest of the bill," but when we look at what's happening here — maybe I'm a little overly



suspicious, you'll forgive me for that, but we've got a denial of successor rights. We've got a denial of a right to strike, even though professional firefighters have never struck in this province. We've got a refusal of the right to bargain workhours in a collective bargaining agreement. It's interesting that Rural/Metro, the private firefighting service from Arizona which is a disaster in the United States, comes to Kitchener-Waterloo and says that one of their solutions, which will allow them to make money and still provide what they call firefighting, is to increase the workweek to 66 hours.

Your observations about the distinction between fire prevention being required and fire suppression being permissive, I suspect, sir, that part IX, the labour relations, is very much part and parcel of the rest of the bill, because it's a blank cheque. It's an open door to private, corporate, for-profit firefighting services that don't want to have to negotiate hours of work, that don't want to have to be burdened with successor rights, that don't want to have to face a workforce that has the right to strike. It seems to me there's far more here than meets the eye.

Your comments about section 2 are pointed; dead on. If the government had really meant what they're trying to say now, they would have included fire suppression in the mandatory subsection which deals with fire prevention and education. I'd appreciate at some point the government telling us why it wasn't simply included among the mandatory sections. It would have been so easy, Mr Carr.

**The Chair:** Mrs Dalpee and Mr Workman, thank you very much for helping us in our deliberations here today.

#### MARGARET LAKE

**The Chair:** Our next presentation is by Margaret Lake, who has also given you a written statement.

**Mr Gary L. Leadston (Kitchener-Wilmot):** Mr Chairman, just to make a correction, Mr Kormos alluded to Kitchener-Waterloo as considering privatization, and that's totally in error. I know the city of Waterloo had been approached by a company. They realized that the cost to privatize the service — they couldn't do it. It was far more cheaply done by the municipality. To my knowledge, Kitchener has not had any discussions about privatization, although you alluded to Kitchener-Waterloo. I just wanted to correct the record.

**Mr Kormos:** Press reports indicate that the CAO — and it has been dealt with numerous times in the Legislature and in committee — has been approached by and met with Rural/Metro. Part of their pitch was a 66-hour workweek for firefighters. It's to the credit of Kitchener-Waterloo that they didn't invite them. I'm not sure that other communities, with your massive downloading of costs, like \$73 million —

**The Chair:** Thank you very much, Mr Kormos.

**Mr Gerretsen:** Are we in a debate?

**The Chair:** Mr Kormos tends to go into debate if you don't watch him.

In any event, we do have guests before us, gentlemen. Mrs Lake, you are accompanied by two individuals. Are they going to take part in the oral presentation?

**Mrs Margaret Lake:** No.

**The Chair:** Please proceed.

**Mrs Lake:** Good afternoon. My name is Mrs Margaret Lake. I am the widow of professional firefighter Captain Bill Lake and the mother of our four children. I live in the city of Belleville, where Captain Lake was a member of the Belleville full-time professional fire department. I am here today to speak against Bill 84.

In 1978 my husband entered his 21st year of service with the Belleville Fire Department. At the age of 41, that same year, he died due to a work-related injury. This injury was the result of a rescue attempt to save two children from a house fire in which both children perished.

The years following my husband's death were filled with loneliness. My life and the lives of our four children, aged 10 through 20, and the lives of the family who lost their two children will never be the same. Many times I ask myself, why? Why did this have to happen?

Today I am proud to say that two of our sons are Belleville professional firefighters. I am here today for them and all residents of Ontario to protest Bill 84. If passed in its present form, it could undermine the level of service and fire protection in our province. Nothing is ever the same when you lose a loved one, and to die in such a tragic way, you have to ask the question why.

As a widow and still asking the question why, I plead with you to reconsider this bill in its present form. Please listen to the professional firefighters and carry out the amendments they are proposing. These are the front-line people who do the job and know what has to be done. This bill, in my opinion, gives each municipality the tools of grave destruction as it allows them to reduce the level of service and fire protection within our communities. I hope to never again have to ask myself the question why for another loved one. One per lifetime is one too many.

I hope in speaking here today, my story will have some impact on reducing the chance of a tragedy striking. With proper manpower, professional training and very quick response to an emergency, I feel much needless grief and suffering can be avoided.

In conclusion, I implore you to listen to our professional firefighters. Make the bill a better one before it's too late. It is my greatest hope that no one will ever have to ask that question why. I thank you for your time today.

1340

**Mr Ramsay:** Thank you, Mrs Lake, for coming before us today. This must be difficult for you. I really appreciate your coming forward because really for the first time today I think you put a light on a whole other aspect of what this bill is about.

Up until now, in regard to fire safety, most of us have been discussing response time, the ability to get to a fire, the ability to suppress that fire and save the occupants at that residence or business. But you've brought up another point, and that is the safety of our firefighters, and this is very important. While we have debate about the use of part-timers to supplement firefighters and debating whether that's safe or not or in a good response time, the point is that I don't know of too many other jobs where we in society ask people, in this case firefighters, to put their lives in jeopardy to save ours. That's a pretty



enormous demand that we make upon a profession. For us now to start to consider diluting the teamwork ability, the full-time professionalism of that group I think is wrong. I think, as you can attest, accidents happen. This is a very dangerous profession. Firefighters lose their lives and sometimes firefighters are also injured, and we should never do anything to put firefighters in jeopardy.

I know that right now all we seem to be talking about as governments is somehow the bottom line. We want to reduce taxes, we want to make government more efficient, and I'm sure we all believe in that, but also what's very important is that we have issues that I think government still needs to retain as a core function, and that is public security and public safety. A firefighting department is something that we have to ensure is absolutely professional, first-rate and full-time, so that not only is the public assured of a department that can respond in the appropriate fashion but that the men and women we ask to put their lives on the line on a daily basis for us are also safe. I think we owe it to them and to you, their families, so that when they go to work they can have confidence that they'll return to their homes that evening or at the end of their shift, whenever that may be. I think that's very important. I'd like to thank you for bringing that point home.

**Mr Kormos:** I too, Mrs Lake, have to express all of our gratitude for your coming forward today and speaking about something that's very personal. I don't know — I'm sure there are some people in this room who do know — the circumstances in which Mr Lake suffered those injuries, but I do know there's a Johns Hopkins study that says that fire services with less than four members on a crew had an injury rate that was 36.3% greater than those that had crews of four people or more. Similarly, a Providence, Rhode Island, fire services study showed that when you increase the crew size from three to four, there's a 55.4% drop in firefighter injuries. So not only does the crew size of professional firefighters, as a team, facilitate the ability to effect fire suppression and rescues, it also protects firefighters from injuries and sometimes deadly injuries.

You've heard, I suspect, the government talk about the fire marshal having the power to oversee what's happening in municipal fire services. You've also heard about the prospect of municipalities being prepared to use three-person crews if nothing more is required of them, and perhaps to supplement them with part-timers, which must mean calling them in, otherwise they'd be full-timers. Would you encourage the government to build some standards into this legislation, starting with a minimum requirement of a four-person crew, in view of how that permits safety for firefighters and enhanced fire suppression and rescue of victims?

**Mrs Lake:** Yes, I would.

**Mr Kormos:** Your husband, at the age of 41 — he was a young man, a very young man, with obviously young children at the time —

**Mrs Lake:** He also that night was two men short. He was working two men short at the early morning fire.

**Mr Kormos:** I suppose what you remind us is, if it comes down to dollars and cents, firefighters and their families are taxpayers too and firefighters' widows pay

taxes too. You're saying this isn't a matter of dollars and cents, it's a matter of lives, both firefighters and victims of fires. God bless you, ma'am.

**Mr Carr:** Thank you very much, Mrs Lake, for a very moving presentation. Like my other colleagues, I think it takes a great deal of courage to come here and explain your story. You've obviously been through a tragedy and you've been able to take that and use it for the good. I think you can be very proud of your husband and his work. Obviously your two sons, you say here, are continuing on in that tradition. It just goes to show that we still have some good people who are prepared to go out and put their lives at risk for other people. Obviously, in spite of your tragedy, you can be very proud of both your husband and your sons, as I'm sure you are.

Is there anything else in the bill that you would like to see us do? Is there anything specific that you would like to see, any parts or sections you'd like to see amended that would help?

**Mrs Lake:** I'm not totally familiar with the whole bill, just the manning part. I think manning should be at a level at least what it is now. That's my feeling as a citizen of a city. That's what I feel.

**Mr Carr:** Again, thank you very much for bringing your thoughts to us here today. I think I can speak on behalf of everybody and wish you and your whole family, and your sons in particular, all the best. We appreciate the service that you've given to your community. Thanks again.

**Mr Klees:** Thank you also for your presentation. I think it's important for the record and for your knowledge that none of us disagrees with the points you've made. I can assure you that the government is very concerned about not only maintaining the levels of service and safety but in fact increasing them. Whatever happens in this bill, I want it to be very clear that we too recognize clearly that we have to go beyond fiscal issues and dollars and cents and make sure that at the end of the day whatever changes are being brought forward are within the context of ensuring safety for the people of this province. There is no compromise on that. Thank you very much for your presentation.

**Mr Gerretsen:** Where's the evidence of that?

**The Chair:** Mrs Lake, thank you very much. I know how difficult it must have been —

**Mr Klees:** Don't be so cynical.

**The Chair:** Excuse me, may I properly thank the presenter? Thank you very much. We know how difficult it must have been to come here today, and we appreciate the effort.

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MAURICE JEFFERY

**The Chair:** Our next presentation is Maurice Jeffery. Good afternoon, Mr Jeffery. Please make yourself comfortable. Please proceed, sir.

**Mr Maurice Jeffery:** Thank you, Mr Chairman and committee members, for the opportunity of being here. I am Maurice Jeffery, born and raised in Trenton, Ontario, and for the past 35 years an independent insurance claims adjuster and holder of an all-lines adjuster's licence



issued by the office of the superintendent of insurance of Ontario. Over those years, I have worked closely in the investigation of fire losses with most of the municipal fire departments in Trenton's part of the province.

Bill 84 in its present draft, in my opinion, does not prescribe or set out expertise and training qualifications required as a firefighter. Bill 84 says who but Bill 84 does not say what as to the qualifications of a firefighter, does not specify or state that a part-time firefighter must be a trained and qualified firefighter or a qualified operator of firefighting equipment. Response time is certainly influenced by distance and route to a fire scene. I don't feel it requires a rocket scientist or an engineer to determine that the use of non-professional, inadequately or untrained firefighters will result in longer response time, which can jeopardize the safety of both the public and the firefighters and cause greater damage to property. This has been brought up several times since I've been here this afternoon.

Bill 84 does give powers to the fire marshal's office such as monitoring, reviewing and advising, but I do not see in the present draft of Bill 84 any stated "must" or "will" by the fire marshal down to the municipalities. In my opinion, Bill 84 as presently drafted will cause municipalities to be left floundering on their own, for example, regarding increased liability and negligence exposure in the use of non-professional, unqualified, inexperienced and inept firefighters, in particular in major fires resulting in multiple deaths in facilities such as hospitals, seniors' and children's facilities and multi-unit apartments. The above greatly influences the market and availability of liability insurance to municipalities, business and the public and insurance risk underwriting in their setting of even higher insurance premiums.

Lifesaving services such as the jaws of life are presently provided within existing fire departments and thus require no additional facilities or staffing.

Firefighting is a life-threatening race. Professional firefighters are a trained team, in my opinion, not unlike the pit crews of a 500-mile car race. The winners of those races do not have a group of good old boys in the pit, nor do they have them driving their winning car, nor do they have privatized pit crews.

In further downsizing firefighting forces and equipment, which is predictable in delegating the decision-making to municipalities, which Bill 84 will allow, there is a concern that such decision-making at the municipal level only — I mean by that other than Queen's Park — will be based on politically influenced whims of elected officials, which could be one giant step to losing the fire race.

I understand presently that, due to province-wide general cutbacks, existing municipal full-time fire departments are presently undermanned to the extent that the safety of the public and the firefighters could be in jeopardy in the event of a major fire. I feel the above situation could be even more a factor in regionalization, presently in process.

I feel there is a need for amendments to Bill 84 as drafted, and before — I say again — and before Bill 84 is legislated. At least road test this vehicle before legislating the public to use it. Thank you for your time and cars.

**Mr Kormos:** Thank you, Mr Jeffery. You're only the second presenter — the earlier one was in Toronto — who has brought to light, from the industry perspective — you're part of the industry — what this means in a dollars-and-cents way, but it's certainly one of the considerations. You're not totally supportive of the bill, and I've heard some of the comments that have been made throughout the day. You're not a firefighter. You've reached your own conclusions in this matter. Obviously, you've dealt with legislation of all sorts throughout your career as an adjuster.

**Mr Jeffery:** Within the insurance umbrella, yes.

**Mr Kormos:** Sure. So you're capable of assessing this, and you're not being paid to do this by firefighters.

**Mr Jeffery:** No.

**Mr Kormos:** You haven't been duped by them or taken away to a motel room and hypnotized so that you'd come here and speak out against the bill, I trust.

**Mr Jeffery:** I'm a little too old for that.

**Mr Kormos:** I'm not being facetious, because some people are trying to create the impression that the firefighters have some sort of interest other than public safety and their own safety. You heard Mrs Lake here earlier. She lost her firefighter at the age of 41. Why the hell shouldn't these guys be concerned about their own safety as well as public safety? They're the ones who've got kids and spouses who are expecting them to grow old with them.

**Mr Jeffery:** Unfortunately, Mr Kormos, as the lady said, a professional firefighter, in my opinion, puts the safety of the citizen at risk first, his own safety second. Yes, the safety of the firefighter is certainly up front, but the use of non-professionals, whether you're getting your car repaired or taking golfing lessons — I'll use the phrase — it doesn't take a rocket scientist to know what the results are.

**Mr Kormos:** Thank you, sir. I appreciate your time.

**Mr Carr:** Thank you very much for your presentation. We appreciate your bringing your expertise to us here today.

Are there any particular parts of the bill you have concerns about? As you know, it's a very comprehensive bill with many sections. Are there any particular ones you'd like to focus on that you'd like to see changed?

**Mr Jeffery:** My focus was in the presentation you just heard, and copies are up front. Like Councillor Workman before me, it's section 2 that I focused on.

I'm a little surprised that time is being taken up by the committee here for labour relations and who should answer what questions. As far as labour, I don't think that's the job of this committee. We've got a bill here that's going to change a lot of things, a lot of it for the better, but as I said, let's take a look at the car before we go out and buy it.

**Mr Klees:** Is there any more time left?

**The Chair:** Yes, we have one minute.

**Mr Klees:** Sir, you're in the insurance industry?

**Mr Jeffery:** Yes, I'm an independent insurance adjuster, a claims adjuster.

**Mr Klees:** Are you an actuary?

**Mr Jeffery:** What do you mean? What kind of actuary?

**Mr Klees:** Well, a professional actuary.

**Mr Jeffery:** Yes, I'm a professional independent insurance adjuster.

**Mr Klees:** No, no. There's a difference between an adjuster and an actuary. An actuary is someone in the insurance industry who sets rates.

**Mr Jeffery:** Oh, no, I don't set rates.

**Mr Klees:** Okay. I'm interested in your comment that you felt liability insurance rates would increase as a result of this bill. I was just wondering what professional expertise you're basing that assessment on.

**Mr Jeffery:** Insurance rates and premiums are based on many things, but primarily risk, location, the capabilities of a firefighting professional, non-professional, whatever. A good example: In the city of Kingston here, they have many high-rise buildings, and if the insurers know that the firefighting forces that would respond to a disaster there are inadequate, untrained or whatever, you can insure anything, but you're going to pay a bigger buck for it than if you have a professional firefighting team.

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Again, the fire marshal's office is a great office, but this bill gives them powers. I have the power to sit here and speak to you in the room, but that's as far as it goes. This bill, in my opinion, doesn't go far enough, that the fire marshal's office will tell municipalities, "You will do whatever; you must do whatever," because if we have elected officials down the line at the municipal level who are making decisions, I feel there will be some shortcomings in their decisions.

**Mr Ramsay:** Thank you, Mr Jeffery, for your presentation. You bring up a couple of interesting points. I'd like to get a clarification on one of them from the ministry at some time, and that is if the ministry has done any impact study on possible increased risk of liability to the municipality if they cut down on fire services. That's something you brought up that I thought was very interesting. It would be interesting to see.

The other point you brought up is the pressure municipal councils are now going to have in regard to cost cutting. I think we really have to talk about this a little bit, because over the days of the hearings many of the government members have said, "Municipal councillors are not going to put their townspeople at risk; they're not going to do that." Of course, they wouldn't do that and wouldn't want to do that. But what's different today of course is the tremendous financial pressure our municipalities have now been put under because of the tremendous downloading of the Harris government.

You'd have to ask yourself, if the Harris government didn't anticipate municipalities exercising some of the options that are available to them in Bill 84, why would we have this Bill 84 before us in this form, if they weren't going to present these options to our municipalities? It really does concern me now, that this, as I call it, loaded gun is being handed off to the municipalities. The minister's saying: "We don't necessarily want you to use it. We're certainly not going to promote your using it, but it is there if you wish to put down your fire department." That's what they could do. Do you fear that?

**Mr Jeffery:** If I were seeking answers to those questions, I would go to the authors of Bill 84 and ask

them directly. Deputants did not author this bill; we're here to express our opinions and concerns on what we feel may be shortcomings. I would trust that following this process here somebody is going to get back to the authors of Bill 84. It didn't work with no-fault auto insurance; it might work for Bill 84 if we can get back to the authors before they publish the book.

**Mr Ramsay:** You had mentioned that you were concerned about the use of part-time firefighters, and I agree with your concern. You had said that when it comes to emergency situations, we want to make sure that we have the most highly trained and effective people on hand. You gave some examples of where we wouldn't want to depend upon part-timers or people who maybe don't have the skill level. Do you think a part-time firefighter would have the same skills and be as up to speed on a daily basis as a full-time professional?

**Mr Jeffery:** Bill 84 does not answer that itself. It says who a firefighter is; it does not say what a firefighter is, be they part-time or full-time. Bill 84 does not say that. It says who a firefighter will be. That's why I use that phrase about the pit crew. With this Bill 84, in my interpretation, you could have a bunch of good old boys in the firehall, and that's a danger.

**The Chair:** Thank you, Mr Jeffery, for your presentation here today.

#### CANADIAN ASSOCIATION OF FIRE CHIEFS

**The Chair:** Our next presentation is the Canadian Association of Fire Chiefs, Fire Chief Don Warden, vice-president, representing Ontario. Good afternoon, fire chief. Welcome. We have 15 minutes set aside for your presentation. I'd ask you to proceed.

**Mr Don Warden:** It's my pleasure to be here this afternoon in front of this very important panel to discuss the enactment of Bill 84.

"The Canadian Association of Fire Chiefs is a national organization of municipal, federal, provincial and industrial chief fire officers. Our primary objective is to reduce loss of life and property and to enhance the science and technology of the fire service throughout Canada. It is not our purpose, however, to become involved in provincially regulated labour union issues, and therefore, our presentation will focus on supporting those portions of the legislation that focus on improving the municipality's and the fire chief's ability to more effectively provide fire protection and related safety services.

"Our association works closely with the Ontario Association of Fire Chiefs in developing and promoting quality fire safety programs. In addition, we work collaboratively on issues which enhance fire department effectiveness. The Canadian Association of Fire Chiefs therefore supports the position of the Ontario Association of Fire Chiefs on this legislation.

"Our presentation specifically supports the development and implementation of the following objectives contained within Bill 84:

"(1) The proactive approach of the legislation in dealing with matters of fire and life safety,

"(2) The increased emphasis on a proactive approach to fire prevention and public education,



"(3) The training and certification of firefighters,

"(4) The requirements that all municipalities provide a minimum level of fire prevention and fire safety to their residents,

"(5) The ability to establish effective out-of-scope fire department management teams based on municipal and department size and realistic needs.

"On behalf of the Canadian Association of Fire Chiefs, I would encourage you to give consideration to these important elements contained within this bill. We believe that it will establish the legislative framework needed to ensure effective and efficient fire and life safety within the province of Ontario for both today and the foreseeable future."

That letter was composed by our president, William J. Hewitt, Saskatoon fire department.

A brief history of the Canadian Association of Fire Chiefs: The association was founded in 1908 in Toronto, Ontario. It was incorporated in 1965 as an independent, voluntary membership, non-profit association and has its head office in Ottawa, Ontario. CAFC is dedicated to reducing the loss of life and property from fire and advancing the science and technology of fire services in Canada.

Our membership in CAFC totals more than 1,390 individuals. Members include fire departments, business and industry, health care facilities, federal and local government, education facilities, fire equipment manufacturers and distributors and several other fields. All paid and composite fire departments in Canada are members of the CAFC, and also many volunteer fire departments bring further strength to this association.

The mission of the association is to "strive for excellence in representation, information, education and service delivery to our members and customers."

Our goals are to provide a national voice on fire service issues; to inform members of current activities and future trends of the fire service; to enhance the knowledge, skills and professionalism of our members; to provide the members with products and services to meet their needs and secure revenues to realize this mission.

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I now will go into the presentation dealing with each issue that we outlined in our opening letter.

Fire and life safety: The proactive approach of the legislation in dealing with matters of fire and life safety will definitely enhance the capabilities of municipalities to provide all Ontarians with a minimum level of safety from fire in the most efficient way. The proposed legislation will further enhance public safety by providing new powers to the office of the fire marshal to review fire services and make recommendations to the Solicitor General to introduce regulations to ensure municipalities are providing the level of protection they require. Due to the risk analysis being identified in their communities, this certainly is a positive step forward when you're dealing with life safety.

The enactment of an automatic aid agreement will definitely result in reduced response times to an emergency incident. This will ultimately provide greater protection coverage in a more efficient manner, and the legislation should definitely reduce the threat of fires and

increase the level of life safety. We believe the proposed legislation will enhance public safety.

Fire prevention and public education: The increased emphasis on a proactive approach to fire prevention and public education will dramatically refocus the efforts of municipalities and fire departments towards prevention to ensure that prevention must be the first tool enacted in fire safety.

The proactive approach of the legislation to ensure that fire prevention and public education are mandatory in every community will ultimately reduce the loss of life and property from fire, and enhance the knowledge of the citizens of Ontario.

The legislation certainly recognizes the diversity in the province of Ontario and has put forward the necessary options to allow all municipalities to comply with the legislation. The Canadian Association of Fire Chiefs strongly supports the concepts of mandatory fire prevention and public education.

Training and certification of firefighters: The training and certification of firefighters is extremely important in today's work environment. Whether firefighters are full-time, part-time or volunteer, it is crucial that they are trained and certified to the highest standards available. This training and certification process will ensure that firefighters are capable of performing the required job skills in a competent and safe manner.

The training and certification process that has been developed in Ontario has some of the best training standards in Canada, and they should be mandatory in every fire department. The Canadian Association of Fire Chiefs is a very strong advocate of the training and certification process and we definitely support the training and certification process that the proposed legislation provides. The certification process should ensure to the municipality that they are receiving the best possible service when emergencies occur in their communities.

We alluded at the start that we did not like to get involved in labour relations issues, but we would like to make a statement in regard to management exclusions. The Canadian Association of Fire Chiefs believes that labour relations issues should be dealt with at the provincial or municipal level. However, having said that, we would like to comment on the management exclusions portion of the proposed legislation.

We firmly believe that it requires more than the two current positions to be outside of the bargaining unit. In today's ever-changing society it is important that we keep abreast of these changes and the requirements that are attached to the changes. The fire service continues to take on more tasks and responsibilities, and to complete these tasks and responsibilities in a more effective and efficient manner requires more people to manage without conflicting loyalties to labour-related organizations and employers.

The ever-changing roles of the fire service demands that there be a solid management team developed in all fire departments. The sliding scale identified in the proposed legislation would appear to be very flexible and it certainly could be adapted to the various-sized fire departments in Ontario.

There are a number of other provinces that currently enjoy having more than two positions out of the bargaining unit, and it appears that the process works extremely well, and their departments are definitely being operated to a greater degree of efficiency. We strongly support the concept for management exclusion in the proposed legislation.

In conclusion, the Canadian Association of Fire Chiefs as an organization is committed to promoting the enhancement of public safety policies and we support the legislative leadership this bill provides to the Ontario fire service.

We also believe that the new legislation provides for the necessary flexibility and leadership that is required for a modern fire service, and the increased emphasis on public education and fire prevention will enhance the safety of the citizens of Ontario.

We strongly urge the government of Ontario to implement Bill 84, as this will lead to providing a fire-safe environment in the province of Ontario.

**Mr Carr:** Thank you very much for your presentation. This might be a difficult question, and I'll understand if you can't answer it. In terms of ranking as a Canadian association, how would you see Ontario versus the other provinces across the country? I'll understand if it puts you on the spot a bit, but how do we see ourselves? How is Ontario doing, versus the other provinces?

**Mr Warden:** Ontario has always been considered as the leading edge of the fire service in the nation of Canada.

**Mr Carr:** That's good to hear. With this bill, do you see anything changing? Will it improve, get worse? What's your thought?

**Mr Warden:** I feel this will only enhance the feelings of the Ontario fire association and the government right across Canada. I know, talking to my colleagues, there are a number of other provincial organizations sitting in the wings waiting to see if this bill does pass. They think it's a terrific piece of legislation and are looking forward to bringing parts of it forward in their own provincial governments.

**Mr Carr:** Good luck to you.

**Mr Bruce Crozier (Essex South):** Good afternoon, chief, and welcome. The International Association of Fire Chiefs has a markedly different view of this piece of legislation than does the Canadian association. Why, in your opinion, is that?

**Mr Warden:** Could I ask for a clarification first? Are you sure it's not the International Association of Fire Fighters, not fire chiefs?

**Mr Crozier:** My advice is the International Association of Fire Chiefs.

**Mr Warden:** I cannot comment on their documents, sir, because I have not read their publication in regard to that. I would have to sit down and discuss their issues to see why they do have a difference of opinion.

**Mr Crozier:** That's fair.

There are chiefs of significant departmental size in the province that differ with your association. Can you help me understand why that would be?

**Mr Warden:** I would think their presentation and their ideas of the legislation are dealing only with their own

communities. They in fact know the risk analysis of their own community. We reviewed the bill as a positive bill for all of Ontario and all of the citizens of Ontario, and there are a great many municipalities that can't provide the top-notch service that the city of Toronto or some of those other jurisdictions can.

**Mr Crozier:** Has your brief been circulated to all of those departments and have they commented on it prior to its presentation here?

**Mr Warden:** No, sir. This brief is done by myself, through the executive committee of the Canadian Association of Fire Chiefs. We discussed this bill in Ottawa last week at our executive committee meeting and this was a position that was put forward from that meeting.

**Mr Crozier:** I'm interested: How can just a few of you sitting around a table come to the conclusion in a brief that this committee is supposed to believe is presented on behalf of all of the departments, of course outside of those that disagree with it?

**Mr Warden:** At our meeting in Ottawa we also had the current first vice-president of the Ontario Association of Fire Chiefs who expressed his views on the bill. We stated in our first paragraph that we are supporting the position of the Ontario fire chiefs.

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**Mr Kormos:** Chiefs and their associations have every right to adopt a position with respect to the bill that they deem is appropriate. I certainly have no quarrel with that. I appreciate, as all of us do, you're representing the association's views here.

Here we are, this is the second week of these hearings, and there's a marked distinction between the position of firefighters, their associations and federation and fire chiefs. Although Mr Crozier raised the international association of chiefs and you haven't read that brief, and that's fair enough, you surely are aware that firefighters and their associations and federation are opposed to this bill. What's the problem there? Where are the loggerheads between chiefs and the thousands of firefighters who are doing firefighting services?

**Mr Warden:** I don't think it would be fair for me to voice an opinion on labour relations issues. As we indicated, there is only one area that I would speak to, and that is on management exclusion. We definitely feel we need more people in the management team to be able to put forward better business operation and management of a fire department. I realize there are always going to be conflicts in regard to management and firefighters. Unfortunately there are labour issues, but the fire chiefs have a difference of opinion only because of their management side of the table. That part of the legislation should be dealt with by AMO or the human resources organizations, not the fire chiefs, as I see it.

**Mr Kormos:** I understand it's a very pro-management bill.

**Mr Warden:** I disagree with that statement.

**Mr Kormos:** Okay. I'm sorry, I misunderstood you, then, when you said that the fire chiefs are looking at it from a management perspective.

**Mr Warden:** I did not say that it's a proactive management bill. I feel it's a very positive bill for the residents of Ontario, to provide them with a greater degree of public education and fire safety.



**The Chair:** Our time has elapsed. Mr Warden, thank you very much for your presentation here today.

#### INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

**The Chair:** Our next presentation will be made by the International Association of Fire Fighters, Sean McManus, Canadian director. Welcome, sir.

**Mr Sean McManus:** Thank you. With me this afternoon is Jim Simmons. He's the vice-president for the Provincial Federation of Ontario Firefighters and a firefighter with the city of Burlington.

Good afternoon. My name is Sean McManus, Canadian director for the International Association of Fire Fighters, a union representing over 225,000 professional firefighters in Canada and the United States. The IAFF represents over 12,500 professional firefighters in Canada and approximately 5,000 professional firefighters here in Ontario. I am very pleased to be here today to represent the views of the IAFF in its opposition to Bill 84, and on behalf of IAFF General President Alfred Whitehead, who unfortunately was not able to present our statement in person.

At the outset, Bill 84 threatens public safety by jeopardizing the wellbeing and property of Ontarians. It sets the stage for a future of ill-prepared firefighting personnel responding to emergencies utilizing substandard equipment. That is not the type of future the citizens of Ontario should expect from their government.

Bill 84 threatens to turn back the clock on collective bargaining in Ontario in that the rights and obligations the IAFF and its members have fought for will be seriously eroded with the passing of this bill. This is not fearmongering on our part. Professional firefighters in Ontario are understandably proud of the absolutely vital service they provide to the citizens of Ontario, and all they are asking for in return is to be provided with fair and decent working conditions within a collective bargaining environment which provides them with a sense of dignity. Bill 84 takes away that dignity and compromises collective agreements which have been negotiated in good faith over the decades. Paid, professional firefighters deserve to be treated with decency as they risk their lives on a daily basis to protect the public and property of the citizens of Ontario.

How does Bill 84 threaten to do all of this? Time does not permit us to itemize each and every deficiency in this proposed legislation, so we will confine our comments to part IX of Bill 84, which deals with the labour relations component.

Subsection 41(1) of the bill waters down significantly the definition of a firefighter. Under the proposed definition, a firefighter is no longer assigned exclusively to fire protection services. That subtle change can have damning consequences for professional firefighters. The scenario could easily develop whereby the training and qualification standards for firefighters will be lowered, as well as staffing levels. Without the current level of training, both the public's and individual firefighter's safety is jeopardized. There is too much at stake already for firefighters when responding to an emergency; they should not have

to worry whether everyone at the scene has the same level of training and expertise to get the job done. As we are sure has been mentioned in other presentations to this committee, there are no second chances for firefighters responding to a situation, and the public deserves to have the best-trained personnel on the scene to save their lives.

Bill 84 goes further to weaken the professional standards and training of firefighters in that there is no longer a requirement that firefighters be full-time. Opening the door to the use of part-time firefighters sends a message to Ontarians that this government does not care about the public's wellbeing. What do we mean by that? Part-timers by their very nature do not have the ability to achieve the same level of training and definitely do not have the same level of experience as a full-time firefighter. In firefighting, seconds mean the difference between life and death. That is the reality of the services they provide to Ontario's citizens. Again, the public deserves the right to have full-time firefighters with experience responding in their time of need.

The definition of firefighter must be read in conjunction with subsections 43(9) and (10) in that the employer could have a staff complement of full- and part-time firefighters, allowing fire stations to have personnel who would not be as well trained as the fire station down the road. Subsection (10) would also paint a scenario of a fire station being chronically understaffed, as a major emergency is undefined in the bill, allowing an employer to determine that the emergency only exists when there is a fire. That is an intolerable and unacceptable situation but one which is a reality in the world of Bill 84. Public safety will be seriously compromised and people will die if amendments are not made to safeguard standards and ensure that enough staff are present within the first few minutes of an emergency to adequately protect the public from loss of life and property.

The exclusion provisions of section 58 allow for a wider exclusion of firefighters from the bargaining unit. The section allows an employer to arbitrarily determine who should and should not be in the bargaining unit. This unfettered discretion afforded to the employer will allow it to create new levels of bureaucracy within the department which are not open to any type of challenge by an association before the labour relations board.

An employer wishing to deal with what it perceives to be an adversary within the bargaining unit will be able to strip that member of the protection of the collective agreement by deeming him or her to be a manager when it is obvious to all that he or she is not exercising any managerial functions. To add insult to injury, the association does not then have the ability to present a case of anti-union animus or other such argument before the labour relations board. A review of applicable labour legislation across Canada illustrates that this is clearly the exception rather than the rule.

We are not submitting that management rights should not exist, but section 58 far exceeds acceptable labour law principles and introduces a heavy-handed method to unilaterally determine the composition of bargaining units. An unscrupulous employer would now have the ability to decimate the ranks of the bargaining unit, thereby creating a substandard working environment.

There are other serious flaws in terms of labour relations within Bill 84, such as the obligation on both the employer and associations to bargain in good faith, but with no stated remedy for breaching the duty, what good is such a provision?

Additionally, there are no provisions for successor rights contained within Bill 84. Such protection is provided for all other employees governed by the Labour Relations Act, but this government wants to treat firefighters in Ontario as second-class citizens. Firefighters who risk their lives on a daily basis deserve a better fate from this government. Incidentally, successor rights provisions are found within all applicable labour legislation across Canada as it pertains to paid, professional firefighters.

1430

This brings us to the most troubling aspect of Bill 84: The proposed definition of an employer, as set out in subsection 41(1), includes not only a municipality but also persons or organizations which employ firefighters. This clearly opens the door to privatization of firefighting services in Ontario. It is impossible to put a pricetag on the cost of saving an individual from death, but that is what this government is saying to the citizens of Ontario should the definition of employer remain unchanged. This government is saying to Ontarians that the bottom line will now dictate whether a person can be saved from immediate danger.

Private operators promise municipalities that they can provide the same level of services which presently exists in the public sphere at lower overall cost to the community. That is the promise. But examine the track record of these operators in the United States: Private operators in the US have been awarded contracts for firefighting services only to have that same contract revoked because of inadequate personnel, equipment and supplies. We do not need such a scenario here in Ontario.

This government cannot afford to take a chance on jeopardizing public safety by handing services over to a corporation which has to show a profit and is willing to compromise the public's safety to achieve that result. The IAFF is opposed to privatizing firefighting and emergency medical services not only because it undermines the standards set for these services but also because the public has a right to know that services will be there when there is an emergency. Corporate influence can negatively alter the mission of government by allowing the profit motive to affect decisions. Profit becomes the ultimate motivation and, when that occurs, services suffer.

To allow for profit in a competitive bid, private operators must cut service levels by reducing the number of apparatus in service, having fewer personnel to respond or by giving personnel lower wages and benefits. When services are reduced, the public is obviously at increased risk for loss of life and property. By privatizing, personnel will not have the experience nor will they know such basics as address location, type of building or the location of hydrants. This is in addition to the high staff-turnover rate.

This government was not elected on a platform of putting the safety of the public at risk, but that is exactly

what it is advocating by allowing the for-profit motive to dictate the level of fire protection in Ontario. Therefore, there has to be a section added to Bill 84 which specifically prohibits the privatization of firefighting services. The public's safety is much too important an issue to allow private operators to cut corners and decrease services to the community.

The IAFF asks this committee to recommend changes to Bill 84 that will reflect that this government recognizes the vital services being provided by paid, professional firefighters in Ontario, thereby not sacrificing public safety at the altar of private, for-profit interests.

In conclusion, the IAFF is opposed to Bill 84 because it has real ramifications for the public's safety by placing them at risk. The changes to the collective bargaining arrangement threaten to undermine a system which has developed over the decades in an environment of mutual bargaining between employers and associations. With Bill 84, this government is saying that it does not think firefighters deserve to be treated in the same fashion as other workers in Ontario. Finally, opening the door to privatization will start a process which will lead to inadequate and poorly trained personnel trying to protect life and property. We trust this is not the type of Ontario that this government wishes to create.

I appreciate the opportunity to appear before you today and am prepared to answer any questions you may have.

**Mr Ramsay:** Sean, thank you very much for your presentation. I'm glad you spent as much time as you did on the threat of privatization to our fire departments. I think it's very important. What needs to be understood is that the mandate of a private company is to do well for that company; the mandate of a public fire department is to do good, to do the public good; through that comes that public accountability that I think is very important.

I think that's why whatever experiments governments want to toy with when it comes to restructuring and reinventing government, those core functions of public safety and security delivery mechanisms have to remain in the public sector so that the public good is paramount and the temptations of trying to make a profit from that sort of service are not incurred. I think that's very, very important, and I'm glad you made that point today.

**Mr Kormos:** Thank you kindly. I appreciate your submission. I made this observation last week in Toronto, but it seems as if the government is trying to run firefighting services the way Wal-Mart runs its department stores. I'm not even sure it works that well for Wal-Mart, never mind for something people depend upon for their public safety. It's not just fire suppression, but it's medical emergencies where firefighters are there first almost inevitably.

I'll tell you right now, and Mr Ramsay has said as much and he'll correct me if I'm wrong and I'll say so as well, if this government were to announce now that it would repeal part IX, I don't think there would be much quarrel from either the Liberal Party or the New Democrats about the bill. There are things that maybe we should be criticizing, but we'd live with that and we could move on. You draw a connection between part IX and the labour relations changes and the prospect of privatization, don't you? You think one inevitably leads to the other?



**Mr McManus:** Absolutely.

**Mr Kormos:** It's designed to accommodate the private firefighting services out of the United States like Rural/Metro. There's no other reason for it.

**Mr Klees:** Thank you for your presentation. You're obviously aware that there's nothing now to hold municipalities back from privatizing or having privatized their firefighting services, and they haven't done so. There's obviously a reason why they haven't done so, and I would expect that those same reasons for not moving in that direction would apply after Bill 84.

Having said that, your reference to training is very important, and it's very important to us as well, which is why this bill sets the framework for the appropriate training and certification to take place. Is it not a fact that right now in Ontario there is in fact not a recognized standard of training or certification for firefighters?

**Mr McManus:** If I could get back —

**Mr Klees:** No, could you please answer that question. Is there or is there not a recognized standard of training?

**Mr McManus:** Yes, there is.

**Mr Klees:** Could you tell me about that? Where do I find it?

**Mr Jim Simmons:** The recognized standard has been developed out of the fire marshal's office, and it simply hasn't been adopted by all of the municipalities in the province.

**Mr Klees:** So there is one; it hasn't been adopted across the province, it hasn't been recognized across the province. Who has it been recognized by?

**The Chair:** Excuse me, Mr Klees, that is a good line of questioning, but our time has elapsed.

*Interjection.*

**The Chair:** Well, I think all of you ask questions well.

In any event, Mr McManus, I thank you for appearing before us today.

#### STEPHEN CLARK

**The Chair:** Mr Stephen Clark is our next presentation. Welcome, Mr Clark. All members should have received a written presentation by Mr Clark. I'd ask you to proceed, sir.

**Mr Stephen Clark:** Thank you very much, Mr Chair and members of the committee. Ladies and gentlemen, it's a great pleasure for me to have this opportunity to address the committee, in my very honoured capacity as a private citizen, about some concerns I have with respect to Bill 84.

To give you a little background about myself, and I'll keep that definitely to a minimum, I served the citizens of Brockville for nine years as their mayor, from 1982 to 1991. I had the great fortune of being elected to that office the day after my 22nd birthday. During the time I had in office I was even more fortunate, because I was young and I didn't have a job at the time other than being mayor, to work full-time at that vocation for over half of the nine years I was in office. It afforded me an opportunity that not too many individuals at that young age could have to learn some insights into municipal government. I felt very fortunate and very honoured that I had that opportunity for such a long period of time.

During my term in office I also became keenly interested in municipal government workings through the Association of Municipalities of Ontario. I started and served on some of their committees, eventually on their board of directors and subsequently on their executive and was honoured to be the president for a year in 1988.

Following my year as president of AMO, I was appointed to the Fire Departments Act review committee, appointed by the Solicitor General's office, which met numerous times to come up with some consensus and changes about that particular piece of legislation. 1440

The committee actually had a very unique form. It was comprised of all the various associations involved in the fire service, all the interested parties. We made, I believe, great progress on a number of necessary changes. Eventually, because of certain changes that occurred in government, our recommendations were shelved, and they were never implemented.

That's one of the main reasons I'm here today: my involvement in that committee a number of years ago. In terms of the committee, I want to again stress that the cooperation and the consensus building we had with that group was quite outstanding in my opinion, and I was very disappointed that the recommendations we put forward were never acted upon. I'm even more disappointed that the bill I've reviewed doesn't capture the spirit of the deliberations some seven or eight years ago. I hope this committee, over its various hearings, will listen to the players involved and make changes to improve and strengthen the fire service.

There are a few things I would like to touch on this afternoon that I hope are worthy of change in Bill 84. My first concern, which was discussed just a few moments ago by a previous deputant, is the issue of privatization in the fire service. It is my belief that the issue of privatization need not be strengthened in this legislation. In fact, given some of the statistics that have surfaced because of Bill 84, I really wonder why the issue is still being discussed. I've seen the media reports on US television and newspaper reports recounting disasters caused by private sector interests in the fire service. These companies, in my opinion, lack public accountability, and further, homeowner subscription services that these companies ultimately offer result in private billings, fees for additional services and ultimately increased fire insurance costs.

Municipal councils in Ontario, their fire chiefs and professional firefighters have demonstrated efficient, cost-effective service. I'll put a well-managed municipal fire department up against one of these private companies any day of the week, and I'll serve the taxpayers more safely and cost-effectively. Training and experience shouldn't be sacrificed to American-style, for-profit companies.

This brings me to my next point, the well-managed municipal fire department itself, ensuring the best response time with properly trained staff and properly staffed equipment. One of the last municipal committees I served on as mayor was a subcommittee of our council that was called the future facilities planning committee, and it did just that, it planned for a variety of civic facilities in our community. Our plans resulted in both a

new police and fire station being constructed, but it did open council's eyes on the many issues surrounding the building of a new firehall. You can't build a new facility today without looking at the total impact of the fire service; it is not a matter of just building a facility.

Our group looked at response times and wanted to make sure that our equipment and staffing would maximize public safety. Response time saves lives. You must have the staff and the equipment at the scene as quickly as possible. Bill 84 should not allow response times to increase.

I'm concerned that this bill may dismantle the cities that have made protection to persons and property a priority. While every municipality is different, the goal or result should be that standards shouldn't be lowered. That is why I'm concerned about the provisions in Bill 84 with respect to the creation of part-time firefighters. In my opinion, it is an issue of reliability and experience as well as a big question mark in the area of training.

To become a first-class firefighter, it takes four years and 9,000 hours of duty. It would take a part-time firefighter eight to 10 years at a minimum to attain this at an average of 20 hours per week. Assuming the person has other job commitments, the part-time firefighter would never receive consistent training compared to their full-time counterpart. Crew training occurs at different times on different subjects. Consistency coupled with the experience issue causes me a big problem. I can't understand how a part-time employee can have the same training as a full-time employee when they aren't there full-time. I don't believe creating a minimum standard ensures experience. A minimum standard is just that, minimum.

Finally, the issue of full-time relationship. The firehall is a place that is different from any other municipal building I've ever been seen. Seeing this at first hand, there is no doubt in my mind that you want a team responding to an emergency situation, not a mixture of personnel with various levels of training. The teamwork in that facility does not compare with any other municipal employee group in this regard. Teamwork is there, and it's a part of their lives; their lives depend on it.

Staffing and training must be at the highest level possible, not just a standard. The staff who respond should be the best trained, not trained until they get a piece of paper that says they can do the job. The whole spirit of this bill should be to get the people involved in this service together to collectively discuss the issues. All parties working to improve the system is the answer.

A well-managed municipal fire department is what should be in existence to serve the citizens of Ontario. Let's make sure that happens and continues. The goal of any fire legislation should be improvement across Ontario, like the area of fire prevention. I hope that collectively your committee and your colleagues in government will make this happen. I'd like to again thank you very sincerely for allowing me this opportunity.

**Mr Kormos:** Thank you, sir. I appreciate your comments, especially with your background and the perspective you bring with you. Again, back to this issue of part-time, earlier today one of the participants in the hearings, who agreed that a three-person crew was unsafe based on

the research that has been done, said, "That's what we could use part-time firefighters for; we could top up the crew." That struck me, because if you only had a three-person crew and you had to top it up, you needed a four-person crew, which meant full-time firefighters. I didn't see how part-time firefighters figured into that.

I'm getting suspicious about this part-time firefighter stuff, because we haven't seen an illustration of how that would really replace — because if two part-time firefighters replace one full-time firefighter, why not have a full-time firefighter with all the training and experience? Have you got a handle on the proposition for part-time firefighters?

**Mr Clark:** In terms of if I have a handle, I can run numbers, just as anyone around the table can. In terms of the issue, as I mentioned, with the 9,000 hours of duty, if you've got someone who's involved in a 20-hour-a-week, part-time position, I just can't run the numbers. If it takes them eight to 10 years just to get the duties, I just can't work the numbers. To me, 10 years later, somebody theoretically could be 15,000 hours behind in training, because crew training is together, it's consistent. I just can't understand what type of proposal would combat inconsistency.

**Mr Klees:** I'd like to get to the heart of this safety and training issue with you. While you were mayor, did you rely on the advice of your fire chief?

**Mr Clark:** Did I rely on the advice of my fire chief? I think any council relies on the total staff they employ.

**Mr Klees:** Do you have any reason to believe that the fire chief of any municipality would not in fact ensure the appropriate training is in place, the appropriate number of people are staffed? Why would you not be able to have that same degree of confidence in the fire chiefs of this province as you had when you were mayor?

**Mr Clark:** First of all, unless I totally missed something, I don't believe I was saying I didn't believe that municipal staff are competent to do the job. What I'm saying is that I think the spirit of the committee I served on many years ago was a cooperative spirit. It had all the parties together. That's what I was accustomed to. What I enjoyed about being involved in municipal life in the city of Brockville was the fact that our department heads and our employees collectively discussed issues through those proper channels. It worked very well.

1450

**The Chair:** We must move on.

**Mr Gerretsen:** First of all, it's always nice to see my former colleague from Brockville here.

You were talking about the committee that came up with some recommendations. I might say that I was on a similar committee back in 1982 that came up with similar kinds of recommendations that were never implemented either. Do you not find the whole process strange here, that all of a sudden we're into a bill and the firefighters have never sat across the table from the chiefs, with AMO and with all the other groups and tried to negotiate a settlement like was done twice before that were never implemented? Do you not find the whole process strange?

**Mr Clark:** I think the issue I mentioned earlier was the fact that I had just finished a term as president of the association, so this committee was very refreshing for me



because it did have all the players around the table. I think all the players who were around the table and had those discussions were very satisfied with the progress that we made. It was an exemplary process. Again, that's something that I was very disappointed in, that nothing arose from those discussions.

**Mr Gerretsen:** For the record, the first government I'm talking about was the Davis government, and the second government very well may have been a Liberal government, and then I think there was a change of government that happened. But the point still is that you get a heck of a lot further with getting everybody around the table and coming up with a process than just having a bill dumped, which by the way was something that Mr Runciman was never all that much in favour of. He said he would never make any changes to any of these acts without actually sitting down with the firefighters and discussing the differences.

**The Chair:** Mr Clark, I thank you very much for taking the trouble to attend before the committee today.

#### KINGSTON PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** The Kingston Professional Fire Fighters Association, Mr George Harris and Mr Fred LeBlanc. Good afternoon. We have your written presentation and I'd ask you to proceed.

**Mr Fred LeBlanc:** My name is Fred LeBlanc. I'm a full-time firefighter with the city of Kingston and I'm president of the Kingston Professional Fire Fighters Association. To my right is George Harris. He's also a full-time firefighter with the city of Kingston and the secretary-treasurer of the Kingston Professional Fire Fighters Association.

I would like to address the ramifications that may flow from what I refer to as a very dangerous piece of legislation. To preface my opposition to Bill 84, I will give you a brief outline of the city of Kingston's fire department.

The Kingston fire department has undergone changes as a result of this government's cuts in transfer payments. These changes have come in the way of increased responsibilities and fewer firefighters. The total staff for 1997 is 96. This takes this department back 23 years; 1974 was the last time the department was at a total staff of 96. If you look at appendix A, you'll see the differences between 1974 and 1996. The big differences are the duties that we perform now in 1996-97 compared to 1974, and the total calls are doubled, all that with the same staff.

This has resulted in the Kingston fire department grasping to stay at the recommended minimum staffing levels put out by the Ontario fire marshal's office. As you can see in appendix B in conclusions, the best-known practice for any fire department is to ensure that at least four firefighters, including an officer, are dispatched to the scene on one vehicle, typically a triple-combination pumper. Like I said, the Kingston fire department is grasping to stay at that level.

Kingston firefighters, like many others across this province, are becoming recognized as much more than the traditional firefighter. Their responsibilities have

increased, resulting in an even greater reliance on the fire service to provide the public with necessary emergency services. The recognition of our service is reflected in a recent survey done by Kubas Consultants in appendix C. The survey reveals the fire department is the highest-rated service, with 50% of the adults surveyed rating our service as excellent. Why impose changes on a fire service so highly rated?

If I could just take your attention to appendix H, the final sheet of this brief, just this past weekend in Kingston was a perfect example of how quickly a fire spreads and why it is imperative to keep full-time firefighters on duty at all of our stations 24 hours a day, seven days a week.

At 2 am on Friday, an abandoned warehouse caught fire. Initial response to this call was 12 firefighters and three trucks on the scene in just over three minutes, with the first truck arriving with four firefighters in only two minutes 15 seconds. Soon after arrival at this fire, all remaining on-duty firefighters were dispatched to the scene. This resulted in five fire trucks and 17 firefighters concentrating their efforts on this fire. Eight off-duty firefighters were called in for standby. Fortunately, four firefighters and one more truck were able to respond to assist at the warehouse fire. The remaining four off-duty firefighters and another truck remained on standby to respond to any other emergency calls in the entire city. Without all stations being staffed by full-time firefighters 24 hours a day and off-duty firefighters responding to this call, I fully believe that the adjacent business and the apartments above it would have also been destroyed.

Just after Saturday midnight, early Sunday morning, a business at 471 Macdonnell Street caught fire. Initial response to this call was three trucks and 11 firefighters in three minutes and five seconds. The size of this fire was such that it required all remaining on-duty firefighters to respond. An off-duty crew of four firefighters was called in for standby.

While on standby, a call was dispatched to a fire involving a car that had smashed into a house. Not only was the car on fire, but the house and the neighbour's garage were also on fire. The response to 34 Churchill Street at 2 am was one fire truck and four firefighters arriving in three and a half minutes. More firefighters were required at 34 Churchill Street, so one truck and four firefighters were taken from 471 Macdonnell Street as the fire there had been essentially knocked down. These firefighters responded to Churchill Street in approximately five minutes.

As private companies are in search of a profit, I find it difficult to believe that a private firm would deliver fire services to this community in the same manner. I challenge this committee to drive by 670 Montreal Street, 471 Macdonnell Street and 34 Churchill Street to see for yourselves the damage that fire can do in such a short time. I encourage you to talk to the citizens at these locations. You've heard the response times to these fires; now try to imagine the amount of damage with longer response times and who knows how many firefighters and/or fire trucks.

Bill 84: I'll concentrate on part IX of this bill, as you are no doubt aware of the public campaign supported by

firefighters and the public at large opposing part IX of Bill 84. First off, I think it's appalling that this government would not consult with firefighters even though Premier Mike Harris made that promise of thorough consultation with all stakeholders during his election campaign. This legislation will have a profound and devastating effect on public and firefighter safety if passed as written. The last discussions with firefighters regarding the changes to the Fire Departments Act took place from May 1990 to July 1991. The differences between those discussions and what we see in this bill can only be summed up as insulting to those who put the time and effort into what was then called the Fire Services Review Committee.

Part IX of Bill 84: The definition of "employer" opens the door for privatization of fire services. The United States has experimented with privatization for over 50 years with very little success. Fewer than 1% of all departments in the United States are privately run. The history of privatizing fire departments is cluttered with horror stories of slow response times, understaffing and poorly maintained vehicles, all of this in search of a profit. The very issues that coroners and public inquiries have cited as key elements in saving lives are properly staffed vehicles and sufficient response times. For-profit or private companies have no place in the fire service. This would result in removing the public from a service that is there to protect them.

The change to the definition of "firefighter" is very significant. This allows for the creation of part-time firefighters. Firefighting is very much a team effort relying on the experience of that team for success on the fire ground. In Kingston it takes three and a half years at 42 hours a week to become a first-class firefighter with the training and experience to be proficient in all aspects of the duties listed back on appendix A. An ongoing review-training program exists so one can maintain this level of proficiency. I cannot fathom how somebody working part-time could be expected to perform all that is expected of today's firefighter. This new curriculum that's coming out from the fire marshal's office is just a bare minimum, so I don't want anybody at this committee level to be fooled that once you pass that curriculum you are indeed on line with a first-class, full-time firefighter.

To supplement full-time firefighters with part-time firefighters is an unfair and dangerous system all around. The public cannot tell when firefighters jump off the trucks who is full-time and who is part-time. All they want and expect is that the firefighters know what to do and how to do it. This is, conversely, unfair to the part-time firefighter who may not be experienced or trained in all aspects of firefighting, but the public expects him to be. This is also unfair to the remaining full-time firefighters, as we train, eat and practically live together; thus we know each other and can expect each other to react similarly in emergency situations. By including part-timers into the mix, an unknown is added which could have tragic results.

"Managers not firefighters," the definition: It stipulates that a person shall be deemed a manager in the opinion of the board, the board being the Ontario Labour Rela-

tions Board. But in clause 2(b) it states, "he or she is a person designated under subsection 58(3)," where "An employer may assign a person...in the opinion of the employer...who exercises managerial functions." Section 58 continues, to say a board is to decide the status, the board has exclusive jurisdiction to determine any question as to whether a person exercises managerial functions. Yet in subsection 58(3), the employer has sole discretion to designate a person described in subsection (1).

These sections and subsections contradict who has the authority in determining managers and will only encourage challenges to the Ontario Labour Relations Board, resulting in more costs to the taxpayers. Even the Ontario fire marshal has stated that the current system promotes teamwork during an emergency.

#### 1500

Off-duty hours and recall, subsection 43(10): This opens a very dangerous door to give the fire chief discretion to call in as a result of a major emergency. "Major emergency" is not defined and gives the chief too much discretion to allow short-staffing in order to save costs. The fire service review committee made a recommendation on this subject — see appendix D. The recommendation is accompanied with the statement that changes must protect firefighters from understaffing that could result if some departments attempt to use recall procedures as part of their normal operating procedures. I do not see that protection in this current wording. This is a subject that should be left to collective bargaining.

Not just fire protection would suffer from the short-staffing of firehalls and longer response times. As indicated in appendix E, the impact fire departments have made in the medical field have been significant. I just refer you to that letter. This is from Brian Field, the director of base hospital, southeastern Ontario.

"To qualify for the 'paramedic phase' of the study, Kingston had to demonstrate its ability to respond to 90% of its cardiac arrest calls with eight minutes or less. The response standard is important because without it, research has shown that defibrillation, as well as paramedic services, will have dramatically reduced patient benefits.

"Kingston regional ambulance service was unable to meet this standard and would not have qualified for the paramedic study. The participation of the fire departments has made the attainment of this important response standard possible."

As I said, in Kingston the addition of defibrillation to the fire service has resulted in Kingston becoming eligible for and in receipt of these paramedic services. This is especially important in a retirement community which is number two in Canada, and with the ongoing changes to hospital care. I would hate to see this community lose those services as a result of this legislation.

Section 44, the termination of employment: This section is ambiguous and there are no guidelines on how the review shall be conducted when one's employment status is being reviewed. Subsections (5) and (6) contradict each other. Although these subsections both deal with the termination of employment, in (5) the firefighter is suspended with pay; in (6) the firefighter is suspended without pay during the review.



The only difference is being terminated with cause. I would hope that a firefighter would require cause to be terminated. This is also contradictory to discussions during deliberations of the Fire Services Review Committee of the early 1990s. You can see that on appendix F. It suggested there that while a firefighter is awaiting an independent review or grievance procedure, the firefighter should remain entitled to full salary and benefits.

Subsection (8) of this same section: This subsection flies in the face of fairness. For no reason other than being a probationary firefighter during the first 12 months of employment, a probationary firefighter may be terminated without cause and would have no access to any review process. Firefighting is currently a popular career choice for many people. It often involves taking pay cuts to come into this line of work. These are qualified people with an obvious desire to be firefighters, but with subsections such as this, there will no doubt be a negative effect on the ability to attract the highest-qualified candidates.

Collective bargaining, section 52: The exclusion of section of 43, hours of work, as a negotiated item will put firefighters in a very compromising position. If the employer has the unilateral right to change the hours of work, it makes me wonder what kind of incentive will be there for the employer to comply with section 51 and bargain in good faith. This will make firefighters a second-class labour group, as all other organized labour groups have the right to bargain hours of work.

Arbitration, subsection 54(7), criteria: The issuance of criteria is not only unnecessary but insulting to arbitrators. Again, this bill does the opposite of what was discussed during deliberations of the Fire Service Review Committee. You can see that in appendix G. Arbitrators must consider all issues that are placed before them during a hearing. The establishment of specific criteria brings the independence of the entire process into question. These criteria, while taking away from the independence, will only add to the costs, as hearings will take longer and require more specialized evidence.

Part 4 of the criteria, comparison to other employee groups, both public and private: I find it ironic that this government wants to compare firefighters to these workers but refuses to give firefighters comparable labour rights under the Labour Relations Act, specifically successor rights and unfair labour practices.

Trade union certification: Totally unnecessary. Firefighter associations have represented firefighters' interests responsibly for over 50 years. During this time there has never been a strike or work disruption. Firefighters have made a commitment to public safety.

Although we are taught as children to trust firefighters, this government seems to have forgotten that trust and feels that it is necessary to include a no-strike clause in Bill 84, despite our commitment and past record.

As shown throughout this presentation, Bill 84 contradicts not only previous recommendations and other pieces of legislation, but itself. Bill 84 requires amendments addressing unfair labour issues and, most importantly, public safety issues.

I urge this government to listen to the firefighters' and the public's concerns. We are counting on you. We don't deserve this.

On behalf of the Kingston Professional Firefighters Association, I'd like to thank the committee for stopping in Kingston and giving eastern Ontario a chance to be heard on this bill.

**The Chair:** Thank you, Mr LeBlanc. Unfortunately, we only have 30 seconds per caucus.

**Mr Carr:** Just very quickly, thank you for your presentation. I'll try to get in quickly. The management exclusions, there's some concern on behalf of the associations that management could use that to get somebody moved into management and then fire them. Is there anything we can do to change that wording to prevent that from happening, in your estimation?

**Mr LeBlanc:** Changing the management exclusions?

**Mr Carr:** The fear from some of the associations is what some unscrupulous fire chief could do is bump you into management, you don't have protection of the association, and then fire you. Is there any wording we can do to prevent that from happening?

**Mr LeBlanc:** Yes, remove it. There are many vacancies at the deputy chief level.

**The Chair:** Thank you, Mr LeBlanc. The time is up. We must move on.

**Mr Gerretsen:** Thirty seconds certainly don't allow me enough time other than to say that the survey results clearly indicate something that I've always found, that our fire department services are held in extremely high regard by Kingstonians. I can tell you it's one of the services that I have never received a complaint about.

Why do you think it is that this government didn't set up a committee structure like previous Conservative governments have done to bring all the various interest groups together and see if something couldn't be worked out, rather than going this route of just coming down with a bill and having, in effect, the chiefs against the firefighters and other people? Have you got any suggestions on that at all?

**Mr LeBlanc:** Yes. That is opinion and this will be my opinion. I just feel that this government, with the changes to occupational health and safety, bills such as this, workers' comp, I'm not so sure that they're interested in what the worker has to say out there.

**Mr Kormos:** I'm interested in appendix A which shows over the 22 years, from 1974 to 1996, there has been no growth in the size of the fire services here, yet a 100% increase in the number of the calls, and of course, a massive increase in the types of services, clearly, most particularly, the health emergency services. We've been assured that no municipal council would ever underfund its fire department or fire services to the detriment of the public. What gives? Same number of staff after 22 years.

**Mr LeBlanc:** Our staffing complement did go up to as high as 103 at one point but with the cuts to transfer payments, the city of Kingston had to cut its budgets all across the board resulting in retirements not filled in the Kingston fire department, bringing us back to this number.

**The Chair:** Thank you very much, Mr LeBlanc, for your presentation on behalf of the association. We appreciate your coming here today.

1510

**CITY OF NEPEAN  
FIRE AND EMERGENCY SERVICES**

**The Chair:** Our next presentation is the Nepean fire department, Mr Chris Powers. Welcome. You should have all received a written presentation. I'd ask you to proceed, sir, when you're comfortable.

**Mr Chris Powers:** Thank you, Mr Chairman. It's a pleasure to be here today. My name is Chris Powers and I'm fire chief for the city of Nepean. I welcome this opportunity to present to the committee my views on Bill 84.

The city of Nepean has a full-time fire department and provides fire prevention and emergency services to 118,000 residents. The department currently employs 135 employees. The majority of these employees are firefighters assigned to fire suppression and rescue duties.

I wish to indicate my support for Bill 84 and to endorse the positions of the Ontario Association of Fire Chiefs and the Fire Chiefs of Ottawa-Carleton. This legislation is long overdue, and once passed and implemented, will provide the citizens of Ontario with a new and effective approach to fire safety.

I do not intend to comment on all parts of Bill 84, but to limit my comments to some of the major issues as I see them. As a fire chief, my primary concern is with the safety of the public and of the firefighters.

Some groups and individuals on both sides of this issue have taken extreme positions on this legislation that are largely without merit. Some argue that municipalities will reduce fire protection standards and place the public and firefighters at risk. We do not believe that this will be the case. While currently not a mandatory service, the vast majority of municipalities provide fire protection services and recognize that fire protection is an essential service expected by the public.

Maintaining adequate standards for public and firefighter safety: With changes provided under this bill, municipalities will be able to provide appropriate and adequate fire protection services at more reasonable costs. However, to avoid possible concerns that services and safety may suffer, the office of the fire marshal must be given adequate resources to ensure that minimum standards of fire protection appropriate to the needs of the individual municipality are maintained.

Management exclusions from the bargaining unit: The very restrictive nature of exclusions from the bargaining unit in the current Fire Departments Act has resulted in an inability to manage fire services in an efficient and cost-effective manner. It has limited the ability to develop the management team that is essential for effective operation of the service.

It is very difficult to promote officers with the best skill sets and qualifications due to inappropriate qualifying factors set out in collective agreements. Despite the restrictions in collective agreements, some good officers do emerge, but this is largely by exception and not by design. Even then, these officers are required to remain in the union, and in many cases cannot function effectively in the management role expected of them.

Management exclusions for the fire department officers are needed if the departments are going to meet the challenges of the next millennium.

There is concern that exclusions from the union will place officers at a greater risk of job loss due to downsizing or cutbacks. Provisions should be made that permit any excluded officer to revert to a previous position within the union, should downsizing affect their excluded position, and provide that their seniority is maintained.

Hours of work: Both the current Fire Departments Act and Bill 84 permit average work weeks of 48 hours. Most collective agreements provide for a 42-hour workweek. We believe there are opportunities to provide alternative work schedules that would maintain or enhance service levels at reduced costs. As competitive pressures are brought to bear on fire departments to provide more cost-effective services, alternative shift schedules must be considered. We believe, however, that these changes should be negotiated and not imposed.

Part-time firefighters: We support the position of the Fire Chiefs of Ottawa-Carleton in the recommendation of the judicious use of part-time staff. A major cost of providing fire services is the staffing required to provide coverage 24 hours per day. Well-trained, part-time firefighters available to cover vacancies due to vacation, sick leave, training leave, etc will allow us to maintain staffing levels at a significant savings over the cost of paying overtime rates.

In 1996, our overtime cost was in excess of \$240,000, largely to cover vacation and sick leave. To pay time and a half just to maintain staff on duty who may not be needed to respond to a call during their overtime shift cannot be afforded or justified in today's climate of fiscal restraint.

In conclusion, I commend the government for the initiatives proposed in Bill 84 and for finally addressing the need to replace fire service legislation designed in the 1950s with appropriate legislation designed for today's needs.

The fire service in Ontario must change, and change causes concern and unease. I believe that my position and the positions of the Ontario Association of Fire Chiefs and the Fire Chiefs of Ottawa-Carleton reflect a balanced approach to change.

I believe that Bill 84 is intended to and that it will provide the residents of Ontario with efficient and effective fire protection services, and that public safety will be enhanced with its enactment.

**The Chair:** Thank you, Fire Chief Powers. We have about two minutes per caucus.

**Mr Gerretsen:** Chief, I'm very concerned with this one statement that you make, "To pay time and a half just to maintain staff on duty who may not be needed to respond to a call during their overtime shift...." How do you know if anybody's ever really needed? What you're really saying there is that you almost want a volunteer force that you call in when they're actually required. I think it's a bit of an irresponsible statement. How do you know who is needed when? If we could predict when fires break out, I suppose we could put everybody on a standby basis, but you certainly wouldn't suggest that, would you?

**Mr Powers:** I didn't say that. I said that I didn't believe that we should be paying time and a half to staff positions when we could pay it at straight time at a much reduced cost to maintain staffing. I'm not talking about reducing staffing. I recognize the need that staffing is an essential part of the effective provision of fire service. We're not



recommending reducing staffing, we're recommending reducing costs.

**Mr Gerretsen:** You've lost me there.

**Mr Ramsay:** Chief, some of your positions, though, seem a little more reasonable than some of the ones I've seen from other chiefs. I think you've addressed some of the concerns that firefighters have here, especially when it comes to management exclusions, because the problem here, besides the debate about whether there's more management needed in the fire department, is that a firefighter will have no say as to being put into management. Then, as you say here, if there was later some downsizing or cutback, that person could lose their job. I applaud your idea that if that would happen, they could retain their position of seniority in the union, if their job became redundant. I think that would help alleviate some of the concern in that area that firefighters have.

The same with hours of work. I think you're one of the first chiefs to come out and say that these hours of work should be negotiated, not imposed. Again, it's not necessarily so much what the bill does at times, but how it does it that really upsets firefighters. I think you're giving a more conciliatory attitude here and I hope the government members would look at some of your ideas for supporting some amendments.

**The Chair:** Thank you very much for your excellent question, Mr Ramsay. We may move on to the government caucus.

**Mr Carr:** Not surprisingly, I agree with Mr Ramsay. I think you have, on both the management exclusion and hours of work, attempted to be practical and add some changes. We appreciate your coming forward. I agree with Mr Ramsay that you are trying to make some of those changes.

You talked about the part-time and the overtime situation. Would you know, is the use of overtime very high right across the province? Is it just some areas more than others, or do we have a real problem in terms of overtime right now in the province, would you say?

**Mr Powers:** I think it's one of the concerns in many departments. My concern is that the fiscal pressures to reduce cost will affect staffing. I think this is an alternative that will help us maintain staffing and also increase the level of training and expertise. I don't agree that part-time translates into lower standards or less-trained people. I think that we can actually enhance it. With initiatives using community colleges and other training programs, I can see the training levels actually improving from what they are today.

**Mr Carr:** Thank you very much, and good luck. We appreciate your help.

**The Chair:** Thank you very much, fire chief, for your attendance here today.

1520

#### FRONTENAC-KINGSTON COUNCIL ON AGING

**The Chair:** Our next presentation is the Frontenac-Kingston Council on Aging, Christine McMillan. Good afternoon, Ms McMillan. All members should have received a written copy of the presentation. I'll ask you to proceed.

**Ms Christine McMillan:** I would like to introduce the executive director of the Frontenac-Kingston Council on Aging, Nancy Matheson. Although I'll be making the presentation, Nancy will be here to answer questions which you may choose to stump me with.

Just in response to the last speaker, as a senior in this community I'm very glad that I live in Kingston and not Nepean. I would be very concerned about having firefighters not allowed to have overtime. I assume overtime happens when firefighters are fighting a fire. I'd hate someone to say: "Sorry, it's 5 o'clock. Where's that part-time guy who's supposed to be coming in?" That's my comment on that.

Anyway, welcome to Kingston. We appreciate the opportunity to share with you our perspective on the impact of Bill 84.

The Frontenac-Kingston Council on Aging is one of a network of 18 councils in Ontario, and as a council on aging, we are concerned not only with today's seniors but also with future generations as they age and retire.

The majority of older adults are conscientious and informed voters with a lively interest in political issues and social issues. I'd just like to mention to you that a recent study by Health and Welfare Canada reports that between 85% and 90% of all seniors turn out to vote, so I hope you'll take good note of what I'm going to be saying.

I'm sure you will agree that the guiding principle of any legislative reform dealing with fire and emergency protection should be to maximize and not compromise public safety. We are concerned that this legislation is primarily about compromising public safety. We are concerned that this is primarily about privatization of fire and emergency protection. This act folds into the Fire Departments Act, which assumed that the municipality is the employer. Under part IX of this new act, subsection 41(1), it states that the employer includes not only the municipality but a person or organization that employs firefighters. I notice that some member of the committee already referred to them as "fire workers," which added to my concern. As a result of this interpretation of the word "employer," the bill's primary purpose would seem to be to establish employment standards for the new world of private firefighting and emergency services.

Here's the reason we feel this way: Bill 84 prohibits strikes, although there has never been a strike by professional firefighters in Ontario in all of our history. Is this bill being brought forward to prevent strikes during the transition period of privatizing an essential service? It has to make you wonder.

Bill 84 legislates cooperation between fire departments, although there has been excellent cooperation between fire departments of the surrounding areas. Is this legislation now required to ensure cooperation between potentially private firefighting companies and municipal professional and volunteer fire departments? Again, you have to ask that question.

Bill 84 introduces part-time firefighters and establishes the right of the employer to call in firefighters only after an emergency occurs. This creates fear that our fire stations and emergency vehicles will be understaffed and slow in responding. Are we sacrificing safety in order to

create a larger profit margin for private companies by reducing operational costs?

You have reported, and it was reported in Hansard, that it was pointed out that municipalities have always had the right to purchase fire and emergency service. This government has now provided the need and the reason to do it, and that's why we're so concerned.

Municipal councils are predicting they will be cash-strapped if the proposed legislation to download social services to municipalities becomes law. We know municipal councils are going to have few options in dealing with the proposed downloading legislation. They're going to be asking, "Do we raise taxes or will we privatize essential services?" From our position, we think that privatization is going to be a better option for them, because they can distance themselves from the inadequate services of reducing the budgets of fire departments and the cost of operating the services, because they can pass it right off on to the property owners. We're all going to pay. It's not going to change the amount we pay; it's just we're going to get a lot less for more.

Bill 84 also mandates additional layers of management within fire departments, and this seems to be strange coming from a government whose mantra has been to tell municipalities that they should be developing local solutions. Is it to ensure that private firefighting companies have adequate supervisory staff?

Bill 84 is very unsettling for seniors, and we're living in a very unsettling time. Last night on the news it was reported that 55% of Canadians are now feeling very disturbed and very unsettled by the way their governments at federal and provincial levels are acting.

Here are our main concerns. Seniors are on fixed incomes. Privatizing this essential government service is certain to bring about higher user costs. Southam newspapers reported on March 19 that in Paradise, Arizona, each homeowner pays up to US\$931 annually to a private company called Rural/Metro for fire protection. The city of Kingston is twinned with Scottsdale, Arizona, and that's the head office of Rural/Metro. It's a company which sells its fire service directly to individuals. Lest you think we're like Chicken Little calling out that the sky is falling, you should take note that Rural/Metro has just recently reached agreements to buy ambulance operations in Hawkesbury, Port Colborne, Lindsay, Owen Sound, Port Hope and Prescott, and in fact made a presentation to the city of Waterloo for their fire department.

It's crucial that people of our age get help for heart attacks in the first four minutes. In our community, the fire department is always within reach. It only takes four minutes or less for them to get there. They'll start the essential first aid required until the ambulance arrives, usually within eight minutes. As seniors, we therefore have a very vested interest in our local fire department.

It has been reported on television and newspapers that Rural/Metro take between 10 and 30 minutes to respond to a call. One can imagine how costs for property insurance will soar as a result.

Bill 84 doesn't include the recommendations of many coroners' juries regarding seniors' residences. These recommendations include mandatory working smoke alarms and enhanced mandatory sprinkler systems in all seniors homes. Legislation must require fire safety train-

ing for not only staff but seniors in this type of independent living. Many seniors have hearing or vision deficits and have limited mobility. In addition, many people with disabilities also live in this type of housing. It is imperative that special and adequate training be provided on not only when but how they should leave their apartments.

I'd just like to take you to page 4, in which we've put our recommendations. I will go through those directly from our presentation. We urge you to withdraw Bill 84. We reject this proposed statute which enshrines in law the establishment of private, profit-motivated fire and emergency services. We're not interested in having our taxes cut in order to be less safe. We urge you to introduce new legislation which consolidates and clarifies but doesn't change the intent of the various statutes which address fire protection and public safety.

We strongly recommend that a new bill include the recommendations of coroners' juries regarding mandatory working smoke alarms, enhanced emergency etc for seniors' residences. Currently seniors' residences only have to meet the requirements of the Landlord and Tenant Act, which is far from satisfactory.

We support the introduction of mandatory fire safety education, but we are concerned with the direction of Bill 84 which will enhance private sector participation in the delivery of fire safety education.

I'd just like to let you know I was a policy adviser for many years with the Ministry of Labour at 400 University, and Zurich Insurance brought in some private sector people to provide fire training to us and it was quite a terrifying experience. They insisted that those people who were buddies with disabled people meet right outside the elevators after the fire alarms went. That was fine when it was just fire drills. I was a buddy. We all did exactly as we were told. In those days, the Ministry of Labour had a program called the handicapped employment program, which provided consultation to employers about hiring people with disabilities. At that time the ministry had a very high number of people with disabilities, and on one occasion I was on the ninth floor with 10 people who were either blind, visually impaired, pregnant or in wheelchairs, and there we sat. We didn't want to leave where we were told to go, but at that time there was a real fire in the restaurant below and the smoke was coming up, and all the wardens left the floor with all the people.

So the group of us took off to one of the offices and wrote what we thought would be adequate fire safety instructions. We were not able to get it through that private firm to take it to the fire marshal's office, nor were we able to get the fire marshal to listen to what we were saying, and we'd had firsthand experience. We wanted to have a safekeeping area, we wanted a bucket with some water, we wanted a blanket and we wanted some duct tape and we wanted a strobe light in a window. That wasn't possible. That was my experience with private people getting involved in fire safety. Firefighters have been there. They know what they're doing. I've said in my report that as children we respected them. They came to our schools, we knew that they knew what they were talking about and they listened, and it meant a great deal.

In addition to that, there's a high rate of work-related injuries among firefighters because of the physically



demanding and dangerous nature of their work. Workers' compensation requires an employer to make every effort to accommodate an injured worker who is not able to fulfil the essential duties of his original job. Public education on fire safety is an excellent choice for firefighters requiring light work.

If you remove the role of fire safety education from fire departments, you're going to increase the WCB assessments to the employer, whether it's the municipality or whether you go ahead and make sure that we just have private fire departments in Ontario. This increased operational cost to fire departments will be passed on to the property owners.

Bill 84 appears to cap the hours of work to a maximum of 48 hours per week. This strikes me as passing strange given that there are currently amendments to the Employment Standards Act which are recommending that the hours of work be increased to 50 hours a week. So I'm wondering who's doing cross-referencing of acts. It used to be that all the acts went to all the departments in the ministries and all the ministries commented and made sure there weren't errors. It doesn't seem like that's happening.

1530

Bill 84 also obfuscates labour relations for this group of workers. Since firefighters belong to a professional organization, it is our understanding that they will not have access to the labour relations board. In fact, the Labour Relations Act currently excludes firefighters from using their offices. So again I wonder why this legislation is before the House. It's incomplete and inadequate.

We strongly recommend that a new fire code be developed and accompany any proposed new statute on fire and emergency services at the time it is introduced in the Legislature.

In closing, just let me say that we were reading Hansard and we saw that our local MPP, John Gerretsen, had stated in the House: "I think most of us will agree that what this bill is really all about is the quality of life and the standard of living that we enjoy here in the province of Ontario."

From our perspective, if you are getting support from an uninformed or weary-of-politics public, we believe that support for this type of harmful legislation will be short-lived as the effects are personally felt. When fire chiefs who are supporting this legislation no longer have jobs with a private firefighting company, God forbid, but if our house is on fire and no fire truck comes for 30 minutes, or a loved one has a car accident and there are no jaws of life operated by firefighters to extricate them from the car, or a loved one has a heart attack, a stroke or a serious fall and no firefighter comes in time to save their lives, at that time we no doubt will cry out, "Why did we allow this to happen to our Ontario?"

**The Chair:** Thank you very much, Ms McMillan, for your presentation on behalf of your association. We've run out of time, but we thank you as a committee.

#### TOWNSHIP OF SOUTH FRONTENAC

**The Chair:** Our next presentation is from the amalgamation committee of South Frontenac region, Larry Redden. Good afternoon, Mr Redden.

**Mr Larry Redden:** Ladies and gentlemen, I'd like to thank you very much for the opportunity to appear before you and give you some of our concerns. I am the chairman of the fire committee for the amalgamation of the new township of South Frontenac, which takes in four municipalities.

We, the members of the fire committee for the newly amalgamated township of South Frontenac, have very few concerns with Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario, at a cost our citizens and taxpayers can afford. Our fire departments are made up 100% of volunteers.

In our amalgamated township, we have put forth a proposal that our four fire departments be area-rated, each one of these fire departments to have its own volunteer chief. We feel this will still give that same excellent and professional service our people have become accustomed to over the years without the expense of a full-time fire chief to serve the four fire regions. It is hoped that Bill 84 will not jeopardize this form of fire administration. On October 4, 1996, we received confirmation for this setup from Solicitor General Robert W. Runciman, MPP.

Another concern is the inspections and public education which are carried out by our fire departments on a voluntary basis. It is hoped that Bill 84 will not force us to hire full-time inspectors or training officers to increase this type of education and safety. This would defeat the reason for amalgamation by a substantial increase in our fire budget, thus saving the taxpayer nothing.

Even with area rating of the fire departments, we will also be rearranging some of our boundaries to better serve our citizens at a reasonable cost. To govern these fire departments, the committee has recommended that a board be formed consisting of the chiefs, deputy chiefs and/or captains from each department, plus two councillors from the new council. This committee would then elect a chair to liaise with the new council.

I thank you very much for the opportunity and hope this will help us meet our end to save money. That's the reason we are amalgamating and we hope Bill 84 will work with us.

**The Chair:** We have considerable time. Mr Kormos, we'll start off with you.

**Mr Kormos:** I would ask that Mr Carr, who is the parliamentary assistant, respond to some of these, because you asked questions — and that's fair enough — and I'd like to hear the answers too.

**The Chair:** He does not have these answers presently available.

**Mr Carr:** We will put them in written form to you, Mr Kormos, and to you, sir.

**The Chair:** Are there any questions by the government members?

**Mr Carr:** I was interested in just what's transpiring with the amalgamation and how your group was put together. Could you expand a little bit on how you were formed and what's happening in your area?

**Mr Redden:** In the fire department?

**Mr Carr:** What's happening with the whole amalgamation.

**Mr Redden:** We've agreed to area-rate them, which means that each municipality will still be paying for its

own fire services and we are going to have one chief for each department. That's contrary to what the fire marshal at one time recommended, but we felt that when you hire a full-time chief and he travels the distance we have, and there are volunteers, we would be losing the personal touch that the volunteer has and there might be some resentment if your chief is making a big salary.

**Mr Carr:** I was also interested in how much time it took working this out and the details. Were you able to come to a consensus about what you wanted to do?

**Mr Redden:** The committee consists of a representative from each municipality and the fire chief of each municipality.

**Mr Carr:** And you've got an agreement on what you want to do?

**Mr Redden:** Yes.

**Mr Carr:** Good luck and thanks very much for your presentation.

**Mr Klees:** I don't know if you've heard any of the presentations today, but there's quite a bit of concern being expressed about the fact that if we allow municipalities to have more of the responsibility with regard to hiring, with regard to allocation of funds, then there is going to be a reduction in the safety that people in the community can count on. I'd be interested to hear from you what the degree of confidence is that you and the people in your municipality have in the kind of recommendations that would come forward from the fire chief, for example, with regard to staffing levels, with regard to equipment requirements.

Are you satisfied, first of all, you would get advice that would be in the best interests of your community and, second, do you feel that your municipality, the decision-makers at the council tables, would support those recommendations and allocate sufficient dollars to make sure that the level of service is delivered that's required?

**Mr Redden:** Yes, we already have done that. I think this area has one of the best volunteer fire departments in the province. We have had many commendations. Our response time is approximately four to five minutes. They also have a medical service and we have the latest in updated equipment. We supply large sums of money to train our men which our council does not begrudge; they feel it is money well invested. I think our service is excellent and we hope it can stay that way and it's also at affordable costs to the taxpayer. We're trying to keep it down so they can afford it and have the best.

**Mr Klees:** Why do you feel then that there's such a very strong campaign going on in this province right now that safety would suffer as a result of this bill? Where's the problem in this?

**Mr Redden:** Did I indicate that I felt that —

**Mr Klees:** You haven't, no, but there's a very strong campaign across the province that's saying that will happen, clearly saying that fire chiefs won't do their job, that the municipalities won't do their job to staff appropriately and so on. Why is that happening?

**Mr Redden:** With my interpretation of it, I don't feel that is the problem. Our only concern was that they didn't force us to have one chief for such a large area, because we felt that they were performing very well as it was.

You see, with the amalgamation we cover a large area. When you take four townships which from one end to the other would probably be 35 miles and approximately 45 miles the other way, you've got a large area. When you bring in a full-time chief, I think you're bringing in a different type of morale. That is where our concern was. 1540

**Mr Gerretsen:** Thank you very much, Mr Redden. First of all, let me just say that I don't think there's ever been a suggestion that councils won't do their jobs or that fire chiefs won't do their jobs. The jobs will be an awful lot tougher under this act, particularly with the downloading that's taking place of other social and health care services as well.

Just so that I'm sure, Larry, how many voluntary firefighters do you have within the four townships that'll form South Frontenac, just roughly?

**Mr Redden:** The average is between 30 and 35 each.

**Mr Gerretsen:** Thirty-two per municipality, and they're all on a voluntary basis?

**Mr Redden:** Yes, 100%.

**Mr Gerretsen:** As you have mentioned already, there's been absolutely no problem with respect to any of the mutual aid, cross-boundary services that may be needed from time to time in this particular area. Is that correct?

**Mr Redden:** No. I think the mutual aid is excellent and we get excellent service from Kingston township and Fire Chief Gow, and Ernestown, all of them. It is something that people can afford. We don't want to change it. We don't want to decrease the service or the safety but we also don't want to increase the costs. That's where we're coming from.

**Mr Gerretsen:** Just so that I'm clear, the labour relations aspects of this bill — part IX, which you may have heard something about today — really don't affect your situation then, because most of your people are volunteer, not full-time firefighters. Is that correct?

**Mr Redden:** Yes. We didn't touch that phase of it, that's why.

**The Acting Chair:** Thank you, sir, for your presentation.

ROBERT ANDRUS

**The Acting Chair:** Next, Mr Robert Andrus. Please proceed.

**Mr Robert Andrus:** Good afternoon. My name is Robert Andrus, a taxpayer in the city of Belleville, Ontario. After completing over 37 years as a firefighter, I am now retired. During those years I was a volunteer, a full-time firefighter, an active member of the firefighters' association engaged in negotiations and contractual agreements, and over five years as the deputy fire chief directly involved in the day-to-day management of the city of Belleville's fire department. I provide the above information to this committee so that as I express my concerns and beliefs today it is with a fair magnitude of knowledge and experience.

In the preparation of this bill, it is said that extensive consultation occurred over the past years. It is no problem to see what consultants were listened to: The Associ-



ation of Municipalities of Ontario, as an example, where their pleading and wringing of hands over the past years has finally borne fruit by having the provincial government propose to legislate out of existence an important share of the AMO's members' responsibilities. Very likely another consultant: The Ontario Association of Fire Chiefs dabbling in politics and total lack of representing their dues-paying members, more explicitly the deputy fire chiefs.

Both of the above organizations, I believe, intentionally failed to emphasize the importance of the position of deputy fire chief for a fire department — AMO, because it is one less restriction for their members, no matter its importance; the fire chiefs, I don't know, possibly a sense of survival.

How many other businesses responsible for millions of dollars each year, as senior management of fire departments are, with employees numbering from tens to hundreds, do not have a vice-president or an assistant manager? How many of these same corporations would expect their accountant or human resource person to direct their company?

Your legislation is suggesting that individuals of lesser rank, training and expertise can do the job of the deputy fire chief. Where are they going to learn the work and responsibilities, fulfil the responsibilities of senior management and still perform the functions of shift captain, as an example? Something or someone is going to get the short end of the stick. Is this going to be the firefighter or the taxpayer requiring emergency assistance?

How many employees would it require to have someone available to function in that management capacity when at the same time they are expected to work shifts — nights, days and weekends — and be available to answer emergency calls and be in outlying fire stations?

The present provincial government and many municipalities do not provide sufficient education and training for management positions in the fire departments of Ontario. Nearly all of the training is on-the-job type.

This legislation, not requiring deputy fire chiefs in the fire departments of this province, leaves it open for municipalities to save money at the expense of good management. Over the past few years some municipalities got the bright idea to do without deputy fire chiefs. How can management honestly believe they need more management when the present situation is not fully utilized? Let's not forget, this creates an avenue for a municipality to draw from the firefighters' association the most experienced members and often the leaders. Could this be the prime intention of this legislation?

It is proposed in this legislation that certain working conditions will cease to be negotiable items. Considering the collective agreement that I am well aware of, in the Belleville fire department, all of the items contained in section 43 of this bill are within this collective agreement solely due to negotiations, not arbitration, not mediation, put there because two parties employer and employee conferred with the view to reach an agreement.

No arbitration, no strike, no threats but the democratic process of sitting down and working out their differences to an amiable conclusion: free collective bargaining. For this to occur both parties must have believed they have

the best solution for their purposes. This new legislation strikes down the word "free." I guess four-lettered words are not the in thing today anyway.

The latest information I have states that the following provinces have no restrictions on these working conditions as proposed in this bill: British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and the Public Service Staff Relations Act covering employees of the federal government.

Should this information be correct, one can only conclude that we are "Americanizing," a good word, our democratic process. Going out in uncharted waters is a recipe for disaster. Why not follow a proven practice, a practice that is accepted across this country. There are no justifications to outlawing these rights and responsibilities.

It is being proposed that conciliation become part of the process before proceeding to a board of arbitration. To what advantage? In one of the years with the most turmoil in collective bargaining, 1979, 5% of all provincial collective agreements were the result of arbitration — only 5% — affecting only 8.4% of the total number of employees involved.

Bryan M. Downie of the school of business at Queen's University in 1979, after examining the arbitration process in Canada, the US, Australia, New Zealand and Great Britain, observed that in those situations where compulsory arbitration is provided for, the greatest majority of disputes continued to be resolved by voluntary negotiations and, "Arbitrators almost invariably are conservative with respect to change."

Conciliation increases the cost of reaching an agreement to employees, especially to small groups of employees. Conciliation increases the cost of reaching an agreement to the employer, thereby increasing the cost to the taxpayer. Increasing the steps in reaching a settlement is a totally unnecessary and costly procedure. In this case, if it ain't broke, don't fix it.

#### 1550

The ability to pay is being recommended as part of the considerations an arbitrator or arbitration board must take when making a decision. Arbitration board chairman O.B. Shime QC in 1976 stated, "Public sector employees should not be required to subsidize the community by accepting substandard wages and working conditions." Mr Shime also noted that an employer may be required to carry on services at a loss but that loss does not justify employees receiving substandard wages. The total community which uses the service should shoulder the financial loss and the employer should be a fair employer.

Arbitrator Teplitsky, dealing with wages in the city of Windsor police board, 1981, stated, "It is a well-established principle that the ability to pay of a public sector employer should not be considered." Inability to pay is an irrelevant criterion so far as public sector employers are concerned since public sector employees ought not to be required to subsidize a public service by accepting substandard wages.

This proposition was first advanced by Mr Justice Emmett Hall in a railway arbitration and has since been

universally accepted. I would be remiss if I did not qualify the above statements by stating that the responsibility of the negotiating parties must include moral, legal and reasonable considerations in this area.

For some 50 years the word of the full-time firefighters of this province, "We will not strike," has been good enough for past provincial governments, but that's not good enough for this government. Oh, no. The way I see it, this government decided it needed to legislate no strike for no other reason than they think the changes they have proposed are so out of line with today's common sense that they must force the changes on the employees of the fire departments in Ontario.

The key issues in this proposed legislation do nothing towards benefiting the employee. Examples:

The right to negotiate the hours of work — in fact the opposite, the employee has no say and will be required to work longer hours — the right to negotiate the manner in which the hours of work are carried out and, as important, the remaining hours with their families. A profession requiring a 24-hour-a-day, 7-day-a-week performance affects the family and should be part of the due process at the bargaining table.

The lack of consistent management by not ensuring a deputy fire chief.

The changing of the definition of a firefighter, thereby allowing municipalities to replace the time spent for training, suppression, inspection and equipment maintenance, as an example, with some other type of municipal work.

Is it the intent of this bill to follow in the footsteps of the province of Quebec where the firefighters also hand out parking tickets? The average taxpayer believes the fire trucks they see responding to a fire call are fully manned. The number of firefighters on these trucks is less today than a year ago in most cases, a very dangerous situation for firefighters and citizens alike.

What surprises me is the fact that the insurance companies aren't taking a good look at cities cutting back on their manpower in the fire department.

To consider it necessary to make the number of changes that are proposed in this bill suggests it is seen that the pendulum is in the extreme favour of the employees. If this is the case, why not rectify the problem by being more conservative and applying a little common sense to the proposed changes? Have that pendulum move in a less dramatic fashion thereby creating a more equal swing, instead of going to the other extreme as proposed in the changes in this case.

I believe that no matter where you are in your life, in this case the negotiating table, a successful barometer to use at any time and under any circumstance is: Is it morally right? Is it legally defensible? Is it reasonably practicable at this time? Should it not pass all of the above, chances are little or none for success.

Why do I speak today? Before decisions become final, fault lines can be monitored, cracks can be repaired, plans re-examined, and people's suffering should never be dismissed.

Chairman and members of the committee, please note my appreciation for being provided this time to make my concerns known, and I fervently hope adjustments will be

made in this bill to continue the rights of all the citizens of this province. Thank you.

**The Acting Chair:** Questions? The government. One minute each.

**Mr Carr:** I'm sorry we don't have a heck of a lot of time as usual, but thank you for your presentation. Outside of part IX, I think the opposition agree with some of the other parts. Do you have any difficulty with any sections other than part IX that you'd like to see changed? I know you've focused on some of the other parts, but are there any other parts in the other sections that you agree or disagree with?

**Mr Andrus:** This is my personal brief and it's from my own beliefs and my own positions. I couldn't certainly spend sufficient time presenting a brief to cover all the areas, so I chose two or three that I found very important to myself personally and that's what I presented.

**Mr Carr:** Thanks for your help.

**Mr Crozier:** Mr Andrus, good afternoon. Your point about the elimination of the deputy chief — I assume there are a number of occasions and various reasons, right from vacation through to other responsibilities, that might take the chief away from the community, away from the fire hall and where you most normally respond to duty. If there is no deputy chief, who would then be in the capacity of being in charge, in your opinion?

**Mr Andrus:** I myself have never experienced the situation, but I would have to assume it would be someone in the fire department. That's the best I can tell you. It certainly isn't going to be someone who has been accepted as management on a 24-hour, seven-day-a-week basis.

**Mr Crozier:** I take that as being your point then, that if there isn't a deputy chief to be in charge in the chief's absence, there's a void left.

**Mr Andrus:** Right. And if there's no deputy chief, as in many departments like Niagara Falls, possibly, and Thunder Bay, large places, why are they asking for more management if they're not already utilizing the present positions?

**Mr Kormos:** That's exactly the point, Mr Andrus. I can't speak for some of the fire services up here, but tomorrow we're going down to Hamilton-Niagara where I know there are some fire services which have declined to fill the position of deputy chief, yet the chiefs' association and AMO are crying out for these extra management positions. So that's the question. You're quite right. I hope you don't mind if I plagiarize it and put it to people down in Hamilton-Niagara tomorrow: "What's the scoop here? You want more management positions yet you decline to use the ones that are available to you now." Something's out of whack.

**Mr Andrus:** True.

**Mr Kormos:** I appreciate your comments.

**The Acting Chair:** Thank you very much, Mr Andrus.

**Mr Klees:** Mr Chair, on a point of order: I may have misunderstood this presentation, but I wonder if we could have clarification from the parliamentary assistant. Is there something in this legislation that precludes municipalities from appointing a deputy chief?

**The Acting Chair:** Can you answer it in one sentence or less?



**Mr Carr:** What I'm going to do, just so everybody's got it in writing, is have the legal staff give you a full letter outlining what it is.

**Mr Kormos:** Can we have unanimous consent for him to answer viva voce now? We'll take your word for it.

**Mr Carr:** Last time you didn't want my word for it. It'll come in letter form, Mr Kormos.

**The Acting Chair:** You'll get it in writing, I gather.

The next presenter is Susan Elliot. Ms Elliot is not present. Do we have a written submission? We do not.

1600

#### ONTARIO MUNICIPAL HUMAN RESOURCES ASSOCIATION

**The Acting Chair:** We'll move on to the Ontario Municipal Human Resources Association, Mr Bishop. Is Mr Bishop available? You have no objection to proceeding a few minutes in advance of your slotted time? Thank you. Please proceed at your convenience.

**Mr Bill Bishop:** Thank you, sir. My name is Bill Bishop and I'm here today on behalf of the Ontario Municipal Human Resources Association. First, I would like to take this opportunity to thank you for allowing me to appear before you and to present certain positions respecting Bill 84, the Fire Protection and Prevention Act.

I am here today on behalf of the Ontario Municipal Human Resources Association. The submission contained herein has been endorsed by the association and a copy has been filed with the Solicitor General, Mr Runciman.

As you can well appreciate, the association's member municipalities have certain responsibilities related to fire services in Ontario. Municipal governments are responsible and accountable for fire protection and prevention as part of the municipal service structure. The human resources professionals within municipalities are part of the partnerships that exist within the municipal structure and help make the delivery of efficient and effective fire services possible.

You have heard from AMO president, Terry Mundell, at which time he outlined many of the recommended changes that AMO would like to see encompassed in Bill 84 to further enhance the delivery of fire protection and prevention services in the province. The Ontario Municipal Human Resources Association adds its voice of support to those recommendations, as well as those found in this submission.

I will not attempt to read the entire submission, but rather will briefly highlight some of the recommendations that we wish to bring forward to you.

In reference to part II, the act deals with issues that speak to the responsibility of fire protection services. It must be made clear that the responsibility for the overall administration and structure of the municipality will be vested in the head of administration. It must follow then that the fire chief, like other municipal department heads, must report to this head of administration. There is no doubt that the fire chief and his or her staff must provide guidance and direction in all matters pertaining to fire services, and this will be best accomplished by operating within a proper structure, through the administrative head to council.

In reference to part VI, section 19 addresses who is an inspector under this act. The area should be amended to: (a) recognize the existence of fire inspectors now performing this function, and (b) provide municipalities with the flexibility to enable fire inspections to be performed in conjunction with other municipal staff such as building inspectors.

Part IX of the act deals with various aspects of employment and labour relations. This submission respectfully requests a number of changes and additions be made to Bill 84 to assist the parties in dealing with these issues.

The definition of firefighter should be expanded to exclude any other employee of the employer not employed as a firefighter or assigned to fire protection services. This would clarify the status of employees in other departments within a municipal structure who regularly provide service to a fire department.

It is recommended that sections of the Ontario Labour Relations Act respecting unfair practices, strikes and lockouts and their enforcement be included in this act. This would provide definition, guidance and remedies to the employer, fire association and employees respecting things like fair representation, employer interference, illegal strike/lockout situations and the obligation to bargain.

The inclusion of a mandatory conciliation process is a very positive step. Sections dealing with conciliation and arbitration should be clarified as to the costs incurred during these processes. Each party should be responsible for their respective costs and split the costs 50-50 with respect to any conciliation officer or arbitrator.

With respect to the issue of management exclusions, the act does not meet the goals and objectives municipalities have long pursued. It is recommended that sections be added to the act to provide for additional exclusions in the eventuality that single-tier fire services are realized in our large centres such as Metro and Ottawa. In these cases, fire departments of 1,000 or more employees would be realized.

If one could point to the section of Bill 84 that causes the greatest concern in the delivery of fire services, it is that section dealing with automatic aid. There is no doubt that tools such as automatic aid will greatly enhance the efficient and effective management of fire services. This tool will, however, go largely unused unless relief from the current no-contracting-out provisions, in some form, is provided for. There are many examples in this province of situations where a fire station belonging to one municipality is within a few hundred feet of the houses of another municipality, and yet, because of geographic boundaries and the no-contracting-out provisions contained in the collective agreement, that station cannot respond to a fire if it were to happen. This is an intolerable situation and does nothing for public safety, which is a goal of this act.

Some mechanisms must be found and incorporated into Bill 84 that will allow municipalities to utilize the fire services of neighbouring municipalities in an automatic aid situation. Similarly, municipalities must be provided with relief from these no-contracting-out provisions so as to enable resources to be shared and utilized across the municipal structure. Most cost reduction and reorganization has been done to the vertical silos we call depart-

ments. Many municipalities are not looking horizontally across these silos to achieve further efficiencies. Areas such as mechanical, training, inspections and communications are examples where the sharing of these functions across a municipality may realize additional efficiencies.

In closing, on behalf of the Ontario Municipal Human Resources Association, I would like to convey overall support for Bill 84. This bill has been a long time coming. I would ask, on behalf of the group I am representing here today, that the committee support the adoption and recommendations contained herein.

**The Acting Chair:** Thank you, sir. We have approximately six minutes, two minutes per caucus. We'll start with the Liberals.

**Mr Ramsay:** Mr Bishop, this submission looks familiar to me, and I just asked the clerk if we'd seen this before. Several paragraphs seemed to be the same. I asked the clerk to look up if your organization had made a presentation before, and yes, they had, in Sudbury on Thursday. Dail Levesque of your organization made this presentation on Thursday. Were you aware of that?

**Mr Bishop:** I wasn't aware that Mr Levesque spoke in Sudbury. Mr Levesque is a member of our association, so he could have spoken there, but I'm not aware of that.

**Mr Ramsay:** I believe he was representing the Ontario Municipal Human Resources Association, so I take it this is the presentation that has been written on behalf of the organization, for the organization?

1610

**Mr Bishop:** Yes, sir.

**Mr Ramsay:** Where are you employed?

**Mr Bishop:** I'm employed here, in the city of Kingston.

**Mr Ramsay:** Okay, thank you very much.

**The Acting Chair:** Any other questions from the Liberal caucus? Thank you. Mr Kormos?

**Mr Kormos:** I have no questions. Thank you kindly, Mr Bishop.

**The Acting Chair:** Government?

**Mr Carr:** Thank you very much for your presentation. I appreciate your taking the time out to put it forward. I was wondering if it would be possible for you to expand a little bit on the automatic aid. We heard some concerns — I forget where it was, whether it was Toronto — from one of the groups; it may have been AMO or it may have been you. One of the chaps Mr Ramsay was referring to came from Orillia and came up to one of the meetings in Sudbury, if recollection serves me.

Do you have any examples of where some of the problems are happening now with regard to automatic aid? Is there a major problem with this across the province? I think one person talked about going by one fire station to get to a fire. We've heard numerous accounts of how speed is important. Could you expand on where some of the problems are with regard to automatic aid in the province?

**Mr Bishop:** When this issue was reviewed at our committee level, there were a number of areas across the province that were cited as benefiting from a mutual-aid type of scenario. We have a situation here in the city of Kingston, as an example, where one fire department is closer to the other municipality's boundaries. We have municipalities in the Ottawa and greater Ottawa area

where a like situation also exists. We have municipalities across the province, for instance, the city of Owen Sound, where a township firehall is located within the boundaries of the city of Owen Sound but does not respond to any fire calls within the boundaries of that particular city. For many of their calls, they pass the city of Owen Sound's fire station on the way to responding to a call. At the committee level, many of the representatives referenced other township fire departments as well existing within the boundaries of a municipality and yet that particular fire department would not respond to the call.

**Mr Carr:** But surely this gets worked out. We've heard continually how speed is a big factor. It was my impression that it wasn't happening, that it may have happened in a couple of areas, but you're saying it's fairly widespread, where we are, for want of a better word, sacrificing speed in order to have a particular municipality respond just because it happens to be that municipality. Why would that be happening? Why couldn't we just, among all the players, work out a deal, some type of arrangement where this wouldn't happen? With speed being the essence, how can that happen in the province, that we're essentially hurting speed for the sake of boundaries?

**Mr Bishop:** An appropriate mechanism can be worked out in terms of meeting the objective of the legislation, which is to improve the safety of the public. The area the fire departments very easily could work out: Who is in the best position to respond to a fire within a certain distance from each fire station?

**Mr Carr:** In your estimation, where is the problem resting? Why can't we do that now? Is there any particular reason it's not being done?

**Mr Bishop:** Currently the problem rests in many areas. The current collective agreements that apply to the fire departments restrict contracting out, they restrict the servicing of various areas on a first-call basis.

**The Acting Chair:** Excuse me, I'm going to have to interrupt you there. I'm afraid we're out of time, Mr Bishop. I thank you very much for your presentation.

#### PETERBOROUGH PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Acting Chair:** The next presenter will be the Peterborough Professional Fire Fighters Association, Mr Brown. Welcome, sir. Thank you for coming. Your associate is Mr Hynes?

**Mr Paul Brown:** My associate is Mr Hynes, yes. He's the vice-president of the Peterborough Professional Fire Fighters Association. My name is Paul Brown. I am the president of the Peterborough Professional Fire Fighters Association. We represent 88 employees in the city of Peterborough fire department, and we're also appearing on behalf of many of the citizens of Peterborough whom we have spoken with over the past three months with respect to Bill 84.

I'd like to first point out that I've been a firefighter for 29 years in the city of Peterborough. I'm still an active firefighter. I respond every day to all types of alarms. One thing, on a personal level, I haven't heard made an issue is that no matter what the call, almost, firefighters are the people running into the situation when other



people are trying to leave. Whether that's into a hazardous atmosphere, whether that's into a building that's on fire that has untenable conditions, those are the people we're talking about, and those are the people who, I hear suggestions made, should be supported perhaps by part-time people who don't have the level of training.

On a personal level, I somehow think that's unreasonable, when you're asking me, or any other full-time firefighter, to enter into these types of atmospheres and asking us not to expect to have highly trained people on the exterior prepared to support us and, if necessity happens, to bring us out of there. I think that point has to be made, and that's who firefighters are, and that's who I am and who Bob is.

It's interesting that during the course of my employment, obviously I've had a lot of opportunity to talk to citizens of Peterborough, and if there's one common message I've received from the people in Peterborough when we talk to them, it's that they expect the fire department to arrive, they expect it to arrive quickly, with a team of experienced and well-trained firefighters. They want those firefighters to take action. They don't want them just to arrive; they want them to take action when they arrive and resolve the emergency.

On one particular occasion, in responding to a fire in an apartment on the fifth floor of a high-rise, a woman was seen briefly at a bedroom window on our arrival. One crew advanced through the interior of the building, and another crew used an aerial ladder to rescue the collapsed woman from the bedroom. While this was going on, the second crew forced the door into the apartment and found the living room heavily involved in fire that had to be extinguished before they could advance.

Only the speed, the experience and the teamwork saved this woman's life, only because those two crews knew what the other crew was doing. They knew that the people on the outside were going to get that woman out from the exterior, so when they were advancing through the interior of the building, they took the time to do it right so they didn't force the fire out of that living room into the bedroom, where she still was, and at the same time protected the rest of the people in the building by extinguishing the fire as soon as that woman had been rescued. That's the kind of teamwork and experience people have come to expect from their firefighters.

It's interesting that the introduction of Bill 84 has created an opportunity for all firefighters, I'm sure, and Peterborough particularly, to get out and talk to people, to explain the services we provide and to come to understand how people view their fire department. Citizens have told us they continue to want rapid intervention in emergencies, be they medical, be they fires, all types of emergencies that firefighters respond to. They believe it should be mandatory for a municipality to provide fire suppression services, and under no circumstances are they interested in having a private business provide fire suppression and emergency response on a for-profit basis.

1620

In particular, they would approve the following:

Amend section 2(1) to ensure that municipalities provide fire protection services, and fire protection

services are defined in the act to include fire suppression, training, all of the services that fire departments now supply. It's not a major change, just a simple word.

Amend 41(1) to ensure that "employer" means a municipality. I only have to ask you to go out and talk to people. Ask them if they've ever considered if they would want a fire department run by anybody other than their municipality. I think almost without exception the answer is no; they want a department that's run by their municipality.

Amend sections 52 and 43 to ensure that firefighters will continue to be able to negotiate hours of employment and related working conditions.

Amend sections 58 and 41 to ensure that the firefighting team remains intact. You don't want to create an unnecessary bureaucracy.

Amend sections 43 and 41 to ensure that stations are manned by full-time firefighters, not part-time personnel.

Citizens I have met with since the introduction of Bill 84 have been clear in their position that municipalities should continue to be responsible for and run their own fire department. They believe there are certain services that should be supplied by the municipality as part of its social responsibility to its citizens. These services, such as fire departments, are part of the safety net that people have come to expect and that determine the quality of life we enjoy in Ontario.

Whether a municipality should supply fire suppression services has never been an issue. I am certain if you asked most people, they would tell you that emergency response is the fire department's primary responsibility, and it is that primary service they expect to receive. That isn't to belittle fire prevention. It isn't to belittle education. All those things are important as well, and I'm pleased to see those in the bill. But I think if you speak to the majority of people in Ontario, what do they expect and require from their fire department? First, they expect an emergency response team to be there to resolve the emergency. All of the remainder is fine, it's important, but given a choice, which segment would they want? They would want the emergency service.

It has never occurred to most people that providing fire suppression service is not mandatory. I'm sure the majority of people are fully convinced — it never occurred to them that the municipality didn't have to provide fire suppression. You might say it's only common sense for the municipality to be mandated to supply fire suppression services. This is only putting into law a condition that almost every citizen agrees with.

Section 52 removes the firefighter's ability to negotiate with respect to hours of employment, the way those hours are scheduled and indeed any of the working conditions set out in the hours-of-work section of the proposed section 43. Is this fair or reasonable? Clearly it doesn't meet the criteria that firefighters have used for years to determine if their position is appropriate. Those criteria — the last speaker referred to them; we were probably educated by the same person — are that it has to be morally sound, it has to be legally defensible and it has to be reasonably practicable. If you use that test on the actions we're putting forward on our position and your position, if it meets that test, it's probably a reasonable proposition.

We would urge you to amend these sections of the bill to ensure that firefighters continue to be treated in a fair and equitable manner, that is, the same manner in which other employees are treated.

As noted earlier, teamwork and experience are essential to ensure that fire department emergency response teams continue to function in the manner people have come to expect. People do not want more managers; they want more firefighters in the field. Clearly the situation in Peterborough illustrates the fact that more people out of the bargaining unit are not needed. The present legislation allows two people; the city of Peterborough is using only one — the fire chief.

In addition, to suggest this person is somehow alone is not a true representation of the situation. The fire chief is supported by a team of experts, including the human resources department, for hiring, firing, contract negotiations, advice on benefits and city policies; the finance department, all their staff, for budgeting, payroll and financial planning advice; the purchasing department, for advice and purchasing of all equipment and services; the city's legal department, for advice on all legal matters relating to collective agreements and other fire department issues. Those are all part of the chief's staff. Clearly this team of professionals is part of the chief's staff for all intents and purposes. That's in addition to his staff who help him on issues of emergency response. This is a support group that the chief has at his disposal.

You heard earlier from Peterborough's fire chief, Lee Grant. I believe he would agree that the fire chief's ability to manage doesn't revolve around the number of people in or out of the bargaining unit but on the ability of the fire chief himself to be an effective manager and leader. Mr Grant, who appeared before you, meets that criterion. I have heard from someone that people in their firefighting staff can't be consulted on hiring. In Peterborough the people in the bargaining unit are part of the hiring process. They have expertise on what we require in a firefighter. They are consulted. Their opinion is taken. We have a fire chief who knows how to lead. He uses the people as resources and also gives them the responsibility and authority to act on his behalf. It's a two-way street.

In Peterborough firefighters know their job. Whether they are in the association or not in no way affects their ability to do that job. When decisions are fair, reasonable and directed towards creating a highly trained, effective emergency team, those decisions are supported, they are expected and they're required by all members of the department.

The issue of part-time firefighters is a complex one or a simplistic one, depending on which direction you come from, but under no circumstances should they be confused with volunteer firefighters. Volunteer firefighters are career firefighters who have taken on the task of providing smaller communities with emergency services. These volunteer firefighters are trained and committed to their community. They supply a volunteer service. They are there for the long term and generally have a full-time occupation or business. There is a great danger that these volunteers will become overextended if we continue to ask more and more of them. We have seen the demands

on them increase in some areas to the point where they cannot respond.

When demands reach that point, it becomes necessary for communities to employ full-time firefighters. Full-time firefighters are always available to respond to all types of emergencies, and because they continually train on a daily basis and have a lower response time, they are able to provide a higher level of service.

The crux of this issue is that neither of these two groups, volunteer or professional, is prepared to have someone respond with them who is only part-time, who has not trained and worked with them as part of the team. To have a part-time person working with them only endangers both themselves and the people they are going to assist. It's not an issue of full-time versus volunteer; you need a team. Some teams are better trained just by their nature: they have the time, they have the number of calls to respond to to get the experience. It doesn't say anything about their dedication. Volunteers are a very dedicated group. They train to the best of their ability. They don't have the opportunities.

In conclusion, Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario, has the potential to have a powerful and positive impact on the fire service of Ontario. My comments have only related to two parts of the bill. However, I urge you to consider these issues and take the course of action that citizens of Ontario expect. These citizens expect and are entitled to a high level of experienced emergency response personnel. This level of service is best provided by firefighters who have the dedication and the determination to make firefighting a career.

**The Acting Chair:** Thank you very much, Mr Brown. I regret to advise that we do not have time for questions. You have exceeded your time allotment by a minute or so, but I do thank you very much for your presentation and for coming down today.

Do we have any other submissions?

**Mr Ramsay:** Chair, on a point of order: I'd like the permanent Chair to make an investigation as to how we had a duplicate representation on this committee from the Ontario Municipal Human Resources Association. As the Chair may remember, we had a Mr Levesque come to our Sudbury meeting with the very same presentation that was made here today, representing the Ontario Municipal Human Resources Association. We had Mr Bill Bishop from Kingston come to us today, again representing the Ontario Municipal Human Resources Association, with the very same presentation.

I know each party submits a list, and I suspect which list this organization was on, but that it was on twice I think is really breaking the privilege that we offer the citizens of Ontario to make representation here. We only have seven days, and I think we need closer scrutiny of these so that we give all Ontarians a chance to make representation before the justice committee.

**The Acting Chair:** Mr Martiniuk, as Chair, will you take it under advisement?

**Mr Martiniuk:** Yes, and I'll report to the committee.

**The Acting Chair:** Anything else? We're adjourned then until 10 am in Hamilton tomorrow. Thank you very much.

*The committee adjourned at 1632.*









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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 15 April 1997

# Journal des débats (Hansard)

Mardi 15 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**

Chair: Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 15 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 15 avril 1997

*The committee met at 1001 in the Sheraton Hotel, Hamilton.*

FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen, members of the committee. This is a continuation of the hearings of the standing committee on the administration of justice, consideration of Bill 84.

The committee welcomes Trevor Pettit, the member for Hamilton Mountain. I understand that Mr Christopherson, the member for Hamilton Centre, in which riding we are meeting, will be here shortly. He'll do his best. Excellent.

Welcome, members of the audience. I remind members of the audience it is my duty as Chairman of this committee to point out that the standing orders do not permit demonstrations in the audience, which includes signs of disapproval and applause. On that note, we can proceed with our meeting today.

## TOWN OF OAKVILLE

**The Chair:** Our first presentation will be made by the town of Oakville, Her Worship Ann Mulvale, and Wayne Gould, representing the Oakville fire department. Welcome.

**Ms Ann Mulvale:** Good morning, Mr Chairman. I can assure that neither the fire chief nor I will frustrate you with any demonstrations. We welcome the opportunity to speak to you this morning on this substantial issue.

I'd like to acknowledge the attendance of the president of the Oakville Professional Fire Fighters Association, Mr Ken Janisse, and many members of that association.

I speak empowered by resolution of the town council, having had two meetings at which the association were in attendance. I speak, as I'm sure they would remind me, on a majority position. It was not a position that was unanimously endorsed; it was a position that was majority endorsed.

I speak not only as the mayor of a community but as a resident of that community for over 25 years and as the mother of Robert and David, who are 22 and 25, in

university, and could potentially need the services of the fire department or be the deliverers of services in a fire department at some point in their career.

I want to articulate in general terms before the chief takes this committee through the terms and recommendations contained in the resolution. We deal, as you know, in very challenging matters in very challenging times. The head of council and the fire chief are the two people, the people who hold those offices, to which the safety of the community is entrusted. The buck stops at the desk of those two people.

There is no monopoly on concern for the safety of people. It doesn't fall conveniently into one political philosophy or another. It is the burden of leadership; it is the burden we willingly accept, as you do. We accept it on the basis of making communities better than we found them. We accept it on the basis of acknowledging we need to move in the challenging and changing times to protect the community, not only today, but to provide for that protection in the future.

The town of Oakville has and is very proud of the fire service that we deliver. We also understand we're not isolated from those changes. My children, as they went through school, and all children in that age group, knew a person called Officer Wilson. Officer Wilson talked safety in our grade schools. It was only after my children graduated that I and they learned that Officer Wilson was never a police services officer. He was a civilian who went in and talked about safety. I raise that as an illustration that prevention in fire service delivery is the critical point in terms of lessening the occurrences of the need for a force to go in to suppress fire. Fire suppression has, it has been submitted to members of the association of municipalities, become 10% of the service delivered by the firefighting folks.

Given that prevention is such a critical point, flexibility is needed to ensure that the best delivery of those techniques for prevention are acceptable. Flexibility should be the issue in this bill, flexibility for each of the municipalities to decide within the challenges they face, within the resources they have, how to safeguard the safety of their people in their community: those who provide the fire service and those who need the fire service.

Oakville, like countless other municipalities, has been making submissions for close to 50 years asking for the existing bill to be reviewed. Your task is not easy. Your task is challenging. We want to be a partner in that to ensure that the very best amendments in this legislation take place. As a mayor who has spoken on the development charge bill, who worked with Mayor McCallion and Mayor Cousens, I know that amendments can only happen after second reading.

This is the process of our government unfolding as it should, and it is appropriate that you hear from a cross-section of people, people with general interests, special interests or whatever, and then you have to distil that and you have to decide. To assist you in that regard, Chief Gould will now make the presentation, animating the recommendations contained in the written submission that we have presented to you for further reference, as you deliberate on the appropriate amendments that must come forward to position communities and the fire service to meet the changing challenge that together we face.

**Mr Wayne Gould:** Thank you, your worship. Good morning, Chairman, members of the committee.

Town council is especially concerned that areas within the legislation that would seemingly allow municipalities to implement improvements to ensure effective yet efficient fire service programs in reality set the stage for constant labour relations problems and perhaps maintaining the unacceptable status quo.

While being provided with the opportunity to address the standing committee and comment on suggested changes to Bill 84, it would be unfair not to compliment the government on the positive aspects of the legislation.

Some of the positive legislation highlights: Oakville council commends the government for the introduction of language contained in Bill 84 that will surely improve the level of fire protection for all Ontarians.

**Responsibility for protection services:** Bill 84 contains requirements for municipalities to establish fire prevention and public education programs. Confirming in law current practice among municipalities is a positive reinforcement and endorsement and appropriate leadership in the development of public fire safety policy.

**Fire prevention programs:** The introduction of mandatory public fire safety programs is a proactive approach to fire safety. Council supports the belief that fire prevention is the key to reducing the loss of life and property due to fire. The emphasis of the legislation reinforces the current fire service practices and will enhance the concept of public fire safety.

**Public education programs:** Education of the public will enhance fire prevention programs and will raise the profile of fire risks and the dangers of fire. Recognizing dangerous situations and having the knowledge to deal with those dangers will help reduce the incidence of fire and save lives. Council supports this initiative in the proposed legislation.

Bill 84 explicitly places on the municipality the responsibility for providing fire protection services and public fire safety education. In turn, Bill 84 identifies the fire chief as the person who is ultimately responsible within a municipality for delivery of fire protection services. Ensuring that the appropriate duties and responsibilities are outlined and provided in law will protect the public and the fire chief. The explanation of authority, duties and responsibilities will also improve the ability of the fire chief to manage the delivery of fire protection and prevention programs for a municipality.

Some of the issues that we wish to make the committee aware of are as follows:

**Automatic aid agreements:** In the proposed legislation, "A municipality may enter into an automatic aid agree-

ment to provide or receive the initial or supplemental response to fires, rescues and emergencies."

Communities require the ability to enter into these agreements to ensure that the closest emergency response agency actually responds to the incident regardless of geographical boundaries. The town of Oakville, for example, has two large water courses that transect the community. This requires large bridges on major traffic routes that become integral components of emergency response routes. Situations created by weather, accidents or construction can have a dramatic effect on our response times. Automatic aid agreements will enable communities to effectively address these problems.

Automatic aid agreements permit the parties to utilize their resources in a much more effective and efficient manner, for example, avoiding the need for additional stations, apparatus or staffing. In Halton, for example, the enhanced 911 system should complement an automatic aid system by providing the automatic number identification or automatic location identification. One only has to look at the manner in which a regional police or provincial ambulance service responds to emergencies to realize that the philosophy of automatic aid is well established and has proven effective.

It would appear that the government has taken the position that initially municipalities should feel free to consider the advantages of automatic aid in consultation with their associations. No-contracting-out clauses in collective agreements dooms this effort to fail from the outset. The support of this concern is also reflected in an October 3, 1996, letter to the Honourable Al Leach from the chair of the Who Does What panel, Mr David Crombie. Council also supports the subpanel recommendation.

The recommendation is that the legislation allow municipalities to enter into automatic aid agreements notwithstanding the no-contracting-out clause in collective agreements.

#### 1010

**Contracting out:** During 1996 and 1997 the town of Oakville, as most other communities in Ontario, has and will continue to grapple with a number of significant financial challenges. The town of Oakville developed an initiative entitled Action '97 to identify strategies to offset the 1997 anticipated budget shortfall of \$2.5 million. During the same time period, there was a requirement to begin construction on a new fire station. As all of the town's departments struggled to identify the ways and means to contribute to the financial solutions, the fire department was hamstrung by collective agreement language that greatly restricted their ability to be part of any innovative solutions.

Municipalities must have the flexibility to consider all viable opportunities or alternatives for service provision. These may include, but not be limited to, any of the following:

Use of part-time or volunteer staffing alternatives.

Other municipal departments may provide services such as building or fire prevention inspection capabilities; public works may provide mechanical services; human resources may provide training options or other solutions.

There may be some consideration to have the privatization of some fire department services: training, communications, mechanical or inspections.



In Oakville's situation, the no-contracting-out language in the town's collective agreement with its firefighters originated from a 1986 interest arbitration award. The award was vehemently opposed by the corporation. Since that time, the corporation has attempted unsuccessfully to negotiate changes in this area. Even the ability to consider alternative staffing solutions for maternity leaves has been unsuccessful. The language basically gives the association a veto power over any form of contracting out and eliminates the right of a democratically and duly elected council to decide, on behalf of its citizens, the type and level of service required in their community.

Council wishes to remind the standing committee that when Bill 84 was introduced, the government commented: "The proposed legislation will enable municipalities to make informed choices by providing an objective and innovative approach to public fire protection — a new way of thinking."

The government also identified key supporting principles: "Local needs and circumstances vary widely across the province. Therefore, the measures required to address these needs and conditions will also vary. There are many ways in which individual needs and circumstances can be addressed. Therefore, municipalities require flexibility to employ different strategies to achieve similar objectives."

The recommendation is that the legislation contains a provision to override restrictive language in collective agreements to permit municipalities to effectively manage fire protection services through the consideration of all viable opportunities or alternatives for service provision.

Who's in and who's out of the bargaining unit: This is no doubt one of the more significant areas of the legislation and perhaps the most important for municipalities.

Whilst you review the proposed changes, council would like to emphasize that without an adequate management structure in the fire department, all the changes you contemplate will not occur. The use of a mathematical formula to determine the number of management exclusions should be discouraged. Council can only envision future legal battles as some municipalities —

**The Chair:** Excuse me, fire chief, there's only about two and a half minutes left in the time and I don't think you're going to make the end. You might wish to summarize some matters for the record.

**Mr Gould:** The fire service has a historical, long-standing, accepted, identified and recognized rank structure that should be utilized to determine who's in or who's out. The fire service identifies those individuals with divisional authority and responsibility through the use of the word "chief" in their rank and title. The divisions may include administration, suppression, fire prevention or training and so on. Positions such as district, platoon or battalion chief, chief training officer, chief fire prevention officer and their assistants, as well as the assistant deputy chief, should be excluded from the bargaining unit.

This is also supported through the responsibilities identified in the recognized Ontario fire service standards. Some of the possible benefits would be that it would provide a system of provincial consistency based on management performance expectations or criteria as

defined by the Ontario Labour Relations Board. The Ontario Fire College would provide training programs specific to management versus non-management audiences, based solely on rank. It will virtually eliminate the number of pending legal battles that will surely ensue as a result of the proposed formula.

The recommendations are that the legislation be amended to provide a management structure that includes all positions that are identified through the use of the word "chief" in the rank and title; and that the fire marshal, in the year 2000, evaluate the effectiveness of the management structure as detailed in the enacted legislation and after consultation with the appropriate stakeholders advise the Solicitor General of its effectiveness and recommendations for change.

**Amalgamations:** The government must be aware that many municipalities are in the midst of a variety of amalgamation and consolidation efforts. These efforts may include the combining of emergency dispatch services, the amalgamation of area fire departments or the integration of emergency medical services. The primary objectives of these initiatives is to improve services while ensuring efficient operations. Municipalities involved in these studies would readily identify that the most significant barrier to the success of these initiatives rests in the prohibitive language contained in the respective collective agreements.

The recommendation is that the legislation must provide language that allows municipalities to consider and implement any types of amalgamated emergency services.

The conclusion is that the Oakville council believes strongly that although Bill 84 contains a number of positive measures to improve public fire safety throughout the province, there are also a number of legitimate concerns that must be addressed to ensure that municipalities are capable of effectively managing their fire protection services.

I've enclosed an article in the back of your presentation material, Fuller on Fire. If you have an opportunity, I would ask that you just go to page 2 and probably read the last two lines. It's an article on moral courage, and I think it reflects the times that we live in.

**The Chair:** Thank you, your worship and fire chief. Our time has elapsed, and on behalf of the committee, may I thank you for taking the trouble to assist us in our deliberations here today.

**Ms Mulvale:** Thank you for the opportunity.

1020

TIM JONES

**The Chair:** Our next presentation is Mr Tim Jones.

I should advise the committee that the clerk does the scheduling pursuant to the subcommittee's direction. However, I did intervene today and therefore we have a 15-minute longer day. It seemed that the Hamilton Professional Fire Fighters Association could not be accommodated, and I requested that the clerk place them on the schedule.

Welcome, Mr Jones, how are you?

**Mr Tim Jones:** Not bad, how are you?

**The Chair:** Please proceed.

**Mr Jones:** I'm not very good at public speaking so I wrote down what I'm going to say.

My name is Tim Jones and I'd like to thank you for letting me have a chance to speak at this hearing. As you can see, I'm on crutches as a result of a pretty bad car accident I had about three years ago that I was just about killed in.

What happened was I drove off the road, and my car became airborne, and I crashed about 100 feet away on a set of railway tracks. The car landing as it did, I broke my back, crushing three vertebrae. The car exploded into flames. At first I was conscious and tried to get out but I couldn't. It just felt like my legs were pinned under the dash, because of my back being broken. I kept trying to get out; then I just panicked and lost consciousness.

Two guys saw the car and one went to phone the fire department while the other came to see if he could help me get out. They couldn't, even with the use of a crow-bar, nor could they do anything to stop the flames from burning me or themselves for that matter. They received minor burns as well. It wasn't until the actual fire department got there that I was rescued from the car, which I found out later was about four to five minutes after they were called. If it had been another two minutes, I probably wouldn't be here right now, because one of the policemen who were at the scene told me that just after they got me out, some sort of small explosion or flash occurred and flames filled the front seat of the car.

I can say I'm in total opposition to Bill 84 or any other that would or could possibly slow response times or put not as highly qualified staff out trying to help people, because when they got me out and away from the car, if they weren't careful in doing so, then I most likely would be paralysed completely and in a wheelchair because of my back. For this reason I think the more training and the faster that firemen can get to an accident or a fire, there's a lot better chance that someone involved would escape with less injury, especially where fires are involved.

I don't think I'm an expert on Bill 84, nor do I think I know everything it consists of, but what I do know and understand about the bill, and which you already know because any intelligent person would realize, is that Bill 84 will eventually affect response times and will make it easy to short-staff emergency vehicles. This bill will also replace highly trained, professional firemen with part-time people who are simply not as qualified, and the bill undoubtedly will lead to the privatization of fire departments, which no one wants.

That is why I think Bill 84 is not a good idea and should not be passed or ever come into effect. That is it. Thank you again for your time.

**Mr David Ramsay (Timiskaming):** Thank you very much, Tim, for coming. I find these personal stories very helpful for me in my job as a legislator in considering how we should try to amend this bill to make it a better bill.

All of us have had varying degrees of interaction with fire departments, and each time we hear a personal story, it enlarges our knowledge of the importance of a fire department, and for a person like myself who maybe in the past just thought, "Well, these were people to put out

fires," it makes me realize the all-inclusive nature of the emergency response that a fire department brings to a community.

I think you make the point very well that it's important to have professional, full-time firefighters at the call when this sort of emergency happens, because what it does, as in your case, is saves lives. I don't think you put any value on that. You're here today, you've got a whole life ahead of you — you're a young man — and that's because of the response of the firefighters three years ago. That's very important.

While I guess we're looking at the bottom line back in the municipality and saying, "Gee, it would be nice to cut that fire department down, and we're certainly getting a lot of pressure from the Harris government to do that," and "Gee, just luckily enough, they gave us this new tool, this Bill 84, to do that," I would hope that with all that temptation and pressure municipal councils would really take a second and third look before they started to make that move, because I, like you, am very concerned that if we start to rely too much on part-time people who have another job, who are not at the fire department, who can't possibly, with the rest of their life, have all the training that a professional firefighter has, they are just not going to be able to respond or maybe be in a type of a zone whereas professional firefighters out there every day responding to this sort of thing absolutely act with the greatest speed in a situation such as yours that was so dangerous.

I think you make a good point. It really is helpful for us and we're going to try to move some amendments that would protect fire departments across this province. Thank you.

**Mr Gilles Bisson (Cochrane South):** The previous presenter, the mayor from Oakville, told us that we need to be wary of what the special interest groups are telling this committee and that we need to cut between the needs of the special interests and giving the power to the municipalities to do what they need to do with fire services, in light of all the downloading that the present government is giving.

Two quick questions: What special interest do you represent? And should we giving this power to the municipalities?

**Mr Jones:** Which special interest do I represent?

**Mr Bisson:** Yes. They're labelling everybody who is speaking against this bill as a special interest group, so which one do you represent?

**Mr Jones:** Just myself pretty much, not any special interest group. I don't know — someone who has been involved in something.

**Mr Peter Kormos (Welland-Thorold):** I wanted to put a question to you, because part of this exercise of privatization of public services — firefighters, corrections, jails. You're from Niagara. They're going to shut down the Niagara Detention Centre, and if it is going to be replaced, it's going to be replaced by a private American company, no two ways about it — privatize sewer and water systems. Part of it's all about this tax break that Mike Harris has given. I've had people tell me this is what their tax break amounts to: It ends up being loose change. If you had to choose between that tax break and



professional firefighters, what would you tell the government to do with its crummy tax break?

**Mr Jones:** I pretty much think they could keep their tax break and keep the professional firemen.

**Mr Kormos:** Put it where the moon don't shine.

**Mr Jones:** Yes.

**Mr Frank Klees (York-Mackenzie):** I too appreciate the personal examples that we have really all across this province of the effectiveness of our fire departments.

For the record, because I think it's important that the people in this province understand what is in the bill, not necessarily the assumptions that are made by people about what the bill may lead to, I'd like you to know that I, along with my colleagues in the government, agree with you when you make the following statement in your letter: We are in total opposition to any bill that "would lead to possibly slow response times or put not as highly effective or qualified staff out trying to help people." We're with you 100% on that. There is absolutely nothing in this bill that would reflect the need for any of that to happen.

You heard today from the mayor of Oakville, who made the statement that she, as an elected representative, has a responsibility to ensure the safety of the people of the community. You may also be aware that right now in the province any municipality has the right under legislation to privatize its fire services if it chooses to do that. There's a reason that they haven't and the reason is that there's clearly a belief in this province that the most effective way to deliver fire services is through the municipal system, and there's nothing in this bill that would force that to change.

I think it's important that the people of the province understand what the realities of this bill are. They provide some flexibility to municipalities for such things as allowing the closest fire department to provide service, and by the way, that also could further help to ensure that lives are saved simply because of that mutual response provision that's there.

There are many aspects of this bill that will enhance safety in the community, and I think it's important for you to understand that. I thank you for your presentation and I just want to assure you that the government is with you when you talk about the need for ensuring safety.

**The Chair:** Mr Jones, we really appreciate your taking the time to provide us with your presentation. Thank you very much.

**Mr Klees:** Mr Chair, while the next speaker is coming up, I have a point of order. Over the last couple of days I think we've had a very good number of hearings. I think it's important to set the stage. Mr Bisson is taking liberties with other members' time, interrupting. If we expect the audience to cooperate, I think members of this committee could be asked to do the same.

1030

#### TOWN OF ORANGEVILLE

**The Chair:** The next will be the town of Orangeville, Fire Chief Barry Harrison. Welcome. I'd ask you to proceed.

**Mr Barry Harrison:** Thank you for your time today. The purpose of my submission today is to make you aware of the perspective of a volunteer fire department in relation to Bill 84.

I've been a member of the Orangeville fire department for approximately 15 years. During that time I have served as a volunteer firefighter, fire inspector, deputy fire chief, and in the last couple of years, as a fire chief. During that time I've had to deal with outdated fire service legislation and acts that have not kept up with the economic growth of this province.

The proposed legislation is directed towards fire prevention and public education, which is a positive move towards public safety of all Ontario residents. We in the fire service have known for a number of years the way to save lives and property from fire was through prevention. Volunteer firefighters provide a valuable service in the community for over 486 municipalities in Ontario.

Bill 84 will allow municipalities to provide the level of fire prevention and suppression that they desire and can afford. A large number of volunteer fire departments already provide fire prevention through inspections and public education. The Fire Protection and Prevention Act will provide minimum standards for fire protection that are non-prescriptive, as established by referencing a flexible risk-management model to enable the authority having jurisdiction, which is normally the fire chief in the town, to establish public safety policy that satisfies the local needs, not needs dictated by someone else.

The legislation also ensures that volunteer firefighters will receive maximum entitlements under the Workers' Compensation Act. In addition, it is being proposed that a provincial fund be established which will provide a minimum of \$100,000 to surviving families of those firefighters killed on duty. I'm looking forward to discussing these things.

Not everyone is happy with the legislation, but I'm sure that once the legislative process has been completed, Ontario will be protected by the Fire Protection and Prevention Act and we'll all be safe from the perils of fire. For that I thank you.

**The Chair:** Thank you, Fire Chief Harrison. Could I just ask you the composition of the town of Orangeville fire department? I have no idea.

**Mr Harrison:** We have 32 volunteers. We're one of the fastest-growing towns in southern Ontario, which is directly north of Brampton. We have a population of 22,000, and I'm proud to say that we have one of the best volunteer fire departments in Ontario.

**The Chair:** Are you a volunteer?

**Mr Harrison:** I'm a full-time chief now. I was a volunteer.

**The Chair:** We have approximately two minutes per caucus. We start off with the third party.

**Mr Kormos:** Down in Niagara, where I'm from, we have a strong volunteer component. Interestingly, the volunteers across Niagara have all supported the professional firefighters in their opposition to the bill, because they understand very clearly that it's important to have that strong professional component, for the welfare of the volunteers as well.

You know that there's strong opposition from professional firefighters across this province, and even internationally there's opposition from firefighters. How come? Why is it that firefighters are opposed, yet mayors and some chiefs of fire departments are on side? What's the schism here? What's the breakdown? Why are firefighters opposed to this?

**Mr Harrison:** I don't know whether firefighters are opposed to it or they're being pushed to the fact from other parties.

**Mr Kormos:** You mean being manipulated.

**Mr Harrison:** Right.

**Mr Kormos:** Like the folks who are in here sort of being duped and conned into coming out in opposition to the bill?

**Mr Harrison:** I don't think all the firefighters, to be honest, are in opposition to the complete bill. There are parts of it, sure, they're opposed to and they have the right to be opposed to it. This is a process to go through to oppose it and certain parts of it. I am sure when the government sits down and goes through it with all the recommendations that have come forth, they'll look at the changes and they'll possibly make them.

**Mr Kormos:** I trust you're on side then with the firefighters in their opposition to part IX, which has really been the focus of their opposition.

**Mr Harrison:** Well, yes. Part IX I don't really want to comment on, by the fact that I don't have any professional firefighters on my side in relation to my department.

**Mr Kormos:** But you're on side with the rest of these folks across the province in that respect, aren't you? Surely you must be.

**Mr Harrison:** Not fully. There are some aspects of it that I don't necessarily agree with.

**Mr Ron Johnson (Brantford):** We've heard from a number of presenters that the quality of fire protection services by volunteer firefighters — and we've heard them, I guess, mainly from the professional firefighters and full-time — that the quality of the service that you provide in Orangeville, for example, would be in many respects lower or substandard compared to the quality of fire suppression and fire prevention services that are provided by full-time firefighters.

To what standard would your volunteers be trained, and would you compare that standard to the standard that is being obtained by full-time firefighters?

**Mr Harrison:** The standard being attained by most full-time firefighters is one they've established on their own. For example, Hamilton will have their own, Toronto will have their own.

**Mr Ron Johnson:** And Orangeville has its own.

**Mr Harrison:** Orangeville, I follow the Ontario standards set out by the fire marshal's office.

**Mr Ron Johnson:** As I think most do. With respect to part-time firefighters, if there was a uniform standard right across the province that all firefighters had to meet, do you feel that would address the public safety issues with respect to the qualifications of firefighters and therefore would alleviate public concern with respect to fire safety and part-time firefighters?

**Mr Harrison:** In my opinion, yes.

**Mr Bruce Crozier (Essex South):** Good morning, Chief Harrison, and welcome. I just want to tell you that all of the municipalities in my riding, which is a small, urban-rural riding, are volunteer so I have some appreciation for the type of service that you provide.

Can you tell us — because not all civilians in large urban areas might appreciate the difference between a full-time professional service and volunteers — are you having any difficulty in Orangeville these days hiring volunteer firemen?

**Mr Harrison:** No. I have a waiting list of around 16 volunteers who have already gone through the three phases of testing and they're waiting for people to either drop off or move out of town, and it doesn't happen in Orangeville. They stay on. I have four captains with in excess of 30 years' service.

**Mr Crozier:** That's encouraging to hear because some have suggested that with today's pressures, business and full-time employment otherwise, it's difficult to get volunteers, and yet I hadn't heard of any specific department that had experienced it.

You've pointed out that some members of your fire department have been there a number of years, which we find with volunteer fire departments. They tend to be very long-term. That's why I wanted to ask you these questions and draw the distinction between part-time and volunteer fire services, because many volunteer firemen have long records of service which I think translates into a strong degree of professionalism. I want to thank you for coming this morning.

**The Chair:** Thank you very much for your presentation. We appreciate it because we don't hear that much from the volunteer forces and considering you are 95%, I understand, of the firefighters in Ontario, we should hear more from you.

1040

#### NIAGARA FALLS FIRE DEPARTMENT

**The Chair:** I call Fire Chief Peter Cornfield, Niagara Falls fire department. I understand he will be accompanied by Fire Chief Tom Johnson, St Catharines; Fire Chief Paul Olah, Welland; Fire Chief Kevin Roach, Thorold; and Fire Chief Bruce Little, Niagara-on-the-Lake. Welcome, gentlemen. We have received a written presentation by Fire Chief Cornfield. I'd ask you to proceed, sir.

**Mr Bisson:** Mr Chairman, I am wondering whether there is an error, because the Niagara Falls fire department shows up twice on the presenters' list. We have the chief coming in and then we have somebody else the second presentation after.

**The Chair:** That's correct, Mr Bisson. We're trying to clear that up. At this moment we don't know why that appears.

**Mr Peter Corfield:** Just for the record, Mr Chairman, the name is Corfield. There is no "n" in it. It's a common mistake, so I'll forgive you.

Thank you very much, Mr Chairman and members of the administration of justice committee, for the opportunity to come before you and present some thoughts and considerations to the committee to pass back to the government in consideration of the legislation.



I want to make a correction. I was expecting another fire chief to be here, George Sesto from Port Colborne, but he is unable to make it. In my presentation you'll see that person's name. He does support what we are here saying today. Fire Chief Bruce Little of Niagara-on-the-Lake is able to join us.

To begin with, as stated, my name is Peter Corfield and I am the fire chief for the city of Niagara Falls. I am here to speak in favour of this proposed legislation. The Niagara Regional Fire Chiefs Association has previously written to the minister expressing the unanimous support of the 12 regional Niagara fire chiefs. I, along with Fire Chiefs Tom Johnson of St Catharines, Paul Olah of Welland — we'll skip Mr Sesto — Kevin Roach of Thorold and Bruce Little of Niagara-on-the-Lake have travelled here today to further express our support with suggested changes. Our five fire departments are composite fire departments with both full-time and volunteer firefighters. Niagara-on-the-Lake is, save for the chief, I believe, fully volunteer.

Our support is based on the belief that this legislation will provide municipalities with some necessary tools to better the fire service and hence the delivery of emergency services to the citizens we serve and protect.

Over the course of these hearings, debates in the Legislature, public announcements etc you have heard and will hear various arguments, some for and some against this bill. It is our opinion that the legislation is not the best it could be but it is far better than the present legislation and, with some improvement, may be an excellent vehicle for today's and tomorrow's fire service. It is a positive step towards addressing a matter that has taken far too long to resolve. For this reason, the Solicitor General is to be commended.

The present Fire Departments Act is a tired piece of legislation that is seriously flawed and outdated. It is very single-minded in its approach to fire safety. Its most serious shortcoming is that it ignores the fact that the fire service is essential. I would like to stress that, that finally we are being recognized as an essential service. There is no legislation mandating fire protection today. There is no mention of the benefits or requirement to promote and emphasize fire prevention. Another example is that, save for a brief mention of volunteer firefighters, there is no other reference or explanation of who they are, what they do etc. As well, the fire chief is only mentioned to describe how the deputy chief obtains his authority. There are many other glaring omissions and shortcomings. Suffice to say, this act must be laid to rest.

When the present legislation was written, the Ontario fire code and Ontario building code were decades away from being instituted. It was a time when municipalities either adopted national codes, wrote their own bylaws or did nothing. Too often, they did the latter. It has been recognized since at least the early 1970s that changes to the legislation governing the fire service were needed. As an example, the Ontario Association of Fire Chiefs made a presentation to the then Solicitor General, Kenneth Keyes, on November 25, 1985, requesting changes. Nothing was done. Over the ensuing years, the fire chiefs' association has made many attempts to bring about change to the legislation without success, until

now. These are just some examples of record among many illustrating the frustration held by fire chiefs and others who have realized the need for change.

During the last government's term of office, many fire chiefs across the province felt we were close to finally bringing resolve to this long-outstanding issue. We all remember the Pilkey task force and its recommendations. But once again no change occurred, in spite of many promises to do so made by those Attorneys General.

It has been stated that not enough consultation has been conducted regarding this matter. The fact is that it has been consulted to near-death. Fine-tuning, some recommended changes, clarification and enactment are all that are left to be done.

In the late 1940s, when the present act was brought into law, the primary function, and most times the only function, of a fire department was to fight fires. They may have also operated the ambulance service and/or undertaken rescues particular to their towns, but they fought fires. They mostly fought fires because fires were more common then than they are today and they were potentially far more dangerous. Uncontrolled fires could, and did, raze whole town blocks of buildings. The history of North America is rife with examples of major cities being left in ruin because of fire.

The fire department of those days was mostly a single-service operation. The fire department of today is very complex and responds to myriad citizen emergencies. My department has seen a dramatic shift from fire-type emergencies to medical emergencies, which in the past year accounted for over 32% of all our calls for help, as opposed to less than 15% for fire alarms.

In the ensuing years since the passing of the Fire Departments Act, four significant events have taken, and will take, place in the fire service.

The first took place in 1974 with the introduction of the Ontario building code. This code has played a significant role in reducing loss of human life and property due to fire.

The second significant event occurred in 1981 with the passing into law of the Ontario fire code, the sister document to the building code. Together they have worked to make our communities safer from fire.

The third event occurred in 1990 when the present fire marshal, Bernie Moyle, became the chief fire official for the province. We now have a truly knowledgeable and progressive fire marshal for the province. His term has not been easy, with the economic situation that has gripped our province. We strongly encourage the government to upgrade its support of the Ontario fire marshal.

The fourth event of significance will be the passing into law of Bill 84. The most important part of Bill 84 is that finally the provincial government will be telling municipalities what many of us have always known: The fire service is essential and, as such, fire protection must be mandatory. This is extremely significant because the protection of a municipality's citizens is a primary function of its elected officials.

The service most capable of delivering the greatest variety of emergency services required by a municipality is the fire service. The present legislation is permissive and allows councils to ignore their responsibilities should



their town be experiencing the good fortune of being disaster-free. Most of us only think of our own safety when it is most threatened, which is the worst time to prepare for it.

**1050**

As mentioned, the fire service of the 1990s is very complex, which is especially evident when comparing these times to the 1940s when the Fire Departments Act was decreed. The myriad laws that have been instituted since then that impact upon the fire service can be overwhelming. I've attached a list of the various acts, which I'm sure by now everyone is very familiar with. Whether the law affects the fire department externally or internally, it is challenging for any fire official to stay current. Law suits against fire departments are becoming more common, which is alarming. Simplifying the legislation we are to operate under should help fire administrators manage the service better. This legislation works to reduce these various acts and bring them under one umbrella act, and this has to be very positive for any fire official and the town he or she represents.

I would now like to make comments on the various areas of the proposed legislation that we feel require modification or clarification.

**The Chair:** Excuse me, Chief Corfield. You have approximately seven minutes left and 10 pages to go, if you want it all to go into the record.

**Mr Corfield:** Do you want me to read in double time? Is that it?

**The Chair:** If you want it on the record.

**Mr Corfield:** Okay, I appreciate that.

Under the present proposed legislation, the fire chief and the municipalities — I've commented here on the present wording. The responsibility to council I think is essential. The five of us who have travelled here today believe that is essential. There are some people and groups who would like to have this reporting responsibility downgraded to another department head, and I believe that is the worst situation that could occur. The fire chief must have the unfettered right to approach his council, and we support that endeavour.

However, it is very important that the legislation require municipalities to ensure that persons appointed as fire chiefs are competent and are required to have attained, as a minimum, the basic course for an executive fire officer as set out by the Ontario Fire College or an acceptable alternative as determined by the fire marshal. The legislation should include wording that will ensure that municipalities appoint competent people to the position of fire chief.

The reason I state that is because in North America there have been municipalities that have put figurehead people into that position, and unless the legislation reflects competency and qualifications we could be exposed to having people put into that position who could facilitate other agendas.

The fire marshal: Listed under the fire marshal's duties is the duty to maintain and operate a central fire college. We fully support this responsibility. It should be strongly noted that the need for a central fire college is essential in the delivery of a quality service. The last few years have seen a degradation of this facility, which has been

concerning. Wording or commitment by the government in providing an adequate facility with qualified staff must be included in the legislation.

This facility must be the vehicle to provide adequate and immediate training to the new management fire officers resulting from the passage of this bill. Municipalities will be hard-pressed to educate these officers in management-labour issues and law. The fire college should be directed to provide basic training.

The fire code: This is very important to me in the city of Niagara Falls because of the high number of motels and hotels that presently come under an outdated, inefficient and basically insufficient act called the Hotel Fire Safety Act.

The city of Niagara Falls has one of the highest ratios of hotels and motels in the province. Under current legislation the fire prevention requirements for these buildings are enforced through the Hotel Fire Safety Act, which is administered by inspectors from the fire marshal's office. These inspectors do not live and work in our city and thus are not as tuned in to the city's fabric as well as a local fire inspector is. This is not to suggest that these inspectors are doing less than an adequate job. It is, however, unacceptable to have this arrangement. Our fire prevention division is quite capable of performing these inspections and building working relationships that will last lifetimes.

Today, beside inspections carried out by the fire marshal's office, there are also other reasons a local fire inspector is required to do inspections in these buildings, which can result in the owner being confused and uncertain about which agency and code he comes under. The requirements of the Hotel Fire Safety Act are substandard to the Ontario fire code. By bringing these acts together, the fire service will be able to work towards eliminating the confusion presently existing within my community. The Fire Protection and Prevention Act will be the much-needed vehicle to address this present awkward situation. The Legislature must work to improve or eliminate the Hotel Fire Safety Act completely.

The shortcoming of this proposal, along with the present fire and building codes, is that it doesn't go far enough. With today's technology there is no appreciable reason why fire damage cannot be dramatically reduced. Mandatory sprinklers and early warning are the two most proven weapons in the war against fire death and fire loss. Why mandatory sprinklers have not been passed into law is a shame on all of us. It is suggested that this bill will reduce fire loss and subsequent cost of fire protection. If we were all genuinely interested in this proposition, we would make it a cornerstone of this legislation.

I strongly urge the government and opposition parties to rethink this issue and join together to make sprinklers a mandatory part of this bill or pledge to work toward this end. We could make a start by insisting that all multiple dwelling complexes be required to have sprinkler systems installed, eventually working our way to having all buildings where people live, work and play afforded this very reliable form of fire protection.

It is essential that the delivery of fire prevention be maintained under the control of the fire service for the purposes of continuity of delivery and excellence of



service. Today's fire department must be 100% dedicated to fire prevention activities of every sort.

How's my time?

**The Chair:** One minute, sir.

**Mr Corfield:** One minute? I'll go into hyperspeed.

Managers not firefighters: The proposed legislation goes to some length to address what positions will or will not be managerial or non-bargaining-unit positions. While we fully support the realization that fire departments are woefully underrepresented with management positions, the proposed legislation does not treat all fire departments equally. As well, the methods by which the legislation determines whether positions are management or bargaining unit only set up the inevitability for needless confrontation between the parties at the municipal level. Under the proposed legislation, the legal system will be the winner while management and labour fight it out in determining the management structure. This must be, and can easily be, prevented.

First of all, the unequal treatment of fire departments: Under the proposal there are four parts which address the number of automatic positions deemed to be managerial, based upon the size of a fire department. This determination is based upon the number of full-time staff of each department. It discriminates against composite departments such as mine.

As an example, the Niagara Falls fire department has a total full-time staff of 103 personnel. Under this proposal, although somewhat uncertain, it appears we will automatically have three persons declared as managerial. However, the total number of all staff, full-time and volunteer, is 198 personnel. The 95 volunteer staff, who require similar managing, do not count for anything. St Catharines is next door to Niagara Falls and will be allowed to have four automatic exclusions because their full-time staffing is in excess of 150, yet the total overall staffing of both departments is almost equal.

While the government has every right to boast about putting forward legislation that finally recognizes the largest firefighter group in the province — volunteers — it then ignores them altogether when setting out this arbitrary formula.

**The Chair:** I'm sorry, fire chief. We've gone one minute over and I just can't permit you to go further. But we all have your written brief and I know all members of the committee will be giving it their full attention. I thank you very much, gentlemen, for attending here today to help us in our deliberations.

**Mr Ramsay:** On a point of order, Mr Chair: I just want to assure the chiefs — you said their submission might not be on the record. Technically, it won't be on Hansard, but I understand that since it has been received by the committee it becomes part of the material of this committee.

The other thing is that the chiefs had mentioned their support for the management exclusion. I think it should be noted that Chief Corfield of Niagara Falls, the chief of Welland-Thorold and Port Colborne do not have deputy chiefs at this time, so I don't know why they're asking for more managers when they could each have deputy chiefs today.

**The Chair:** Thank you, Mr Ramsay. That's not a point of order.

1100

## HAMILTON-WENTWORTH POLICE ASSOCIATION

**The Chair:** Our next presentation will be made by the Hamilton-Wentworth Police Association. Good morning, sir. I'd ask you to proceed with your presentation.

**Mr Oscar Husslage:** Mr Chair and committee members, my name is Oscar Husslage. I'm president of the Hamilton-Wentworth Police Association, and I'm here today representing the interests of more than 600 front-line police officers in this community. I'd like to thank you for providing me the opportunity to speak to you today. I'm here to express reservations on behalf of my members on the introduction of Bill 84.

I'm sure you've heard over the past weeks and months the concerns from various groups, and I have no intention of taking up your time describing the individual sections of what I see as serious shortcomings. Mr Paul Walter, the president of the Metropolitan Toronto Police Association, has already written this committee, and we would consider that our written submission as well. But I would like to take this opportunity to describe to the committee what impact I feel this bill will have on the regional municipality of Hamilton-Wentworth from a police perspective.

I have worked for the police service here for 20 years. During that time, I and every officer I work with have had to respond to innumerable emergency calls involving danger to life. One of the ones we most dread is the call "Baby not breathing." Last January, I was speaking to an officer in relation to one of those calls. I recall that officer's words to this day: "It's the call that scares the hell out of me. Thank God we have the fire department. They can always get here first."

Police officers have a responsibility to protect life; we are not tasked with the responsibility of saving life. Our fire services in Hamilton-Wentworth are tasked with that responsibility, and I can tell you from the experience of 20 years that they have met that task admirably. They are the service that promises to our citizens immediate response to any lifesaving need. We in this region have no other agency that can meet that service without any delay.

Whatever you're told, understaffing fire stations or vehicles and calling in firefighters after an emergency has taken place cannot enhance or maintain our fire services' ability to save lives. Less services available cannot mean a more improved service or even maintain the same service.

We, the police, also have responsibility for investigating crime. Many fires in this city have criminal aspects to them. Arson, mischief, fraud, hydroponic drug cultivation and murder are just a few of the offences we face during these investigations. Our police services board has recognized the growing problems in this region and late last year created the full-time position of an arson investigator within our service. For us to properly investigate these crimes, scene preservation is extremely important. Firefighters in this city and this region know that many times they are important witnesses to these crimes, and they have developed an understanding of the

need to preserve these scenes. This bill, I believe, threatens that critical teamwork we have built.

In my 20 years of service I've seen a huge increase in what I call responses to emergencies of unusual circumstances: hazardous materials leaking gases, unusual rescues, horrific vehicle accidents, entire sides falling off buildings, roofs exploding off buildings; the list just goes on. The increasing complexity in our society has forced our fire services to continually train and prepare for these complex and unforeseen situations and disasters. The need for fully trained professionals in our fire department is more important than ever. Emergency services aren't a hobby and they're not part-time work.

I'd also like to comment on two areas of the bill in relation to my experience as an association representative. I've been told that section 43 of the bill describes call-ins only for major emergencies. I can tell you, our association has learned through arbitration what an emergency means. We've been told, and an arbitrator has upheld it, that it's what the chief defines it as, so basically an emergency is — whatever.

The second area is employee designation. Our association has found that any employee applying to leave our bargaining unit because of so-called managerial functions has been successful in that application. We've never had one that's lost. Two of the most visible outcomes of this process have been (1) increased costs because of the new managerial status that's attached to the function, and (2) we seem to have a growing policy manual as they begin to manage, for exactly the same service that's provided.

Section 41 raises the possibility that privatization of fire services could take place. Emergency services are not businesses but a fundamental responsibility of government. As a resident of Hamilton-Wentworth, I don't have to look any further than this municipality to see the outcome of privatization. Public utilities were privatized here last year, and I believe lawsuits are still outstanding because of residents being flooded out in Stoney Creek. Both government and the private company involved deny any responsibility. A brand-new arena sits on the west mountain and is now again being operated by the city of Hamilton because the private company involved pulled out on short notice.

"Public safety" was the phrase I and my members heard repeatedly during the last election. It was based on a concern and commitment to preserving and improving our community safety. Understaffing, calling in after an emergency has taken place, the introduction of part-time, increased bureaucracy and privatization are not associated with preservation and enhancement.

I believe that the citizens of Hamilton-Wentworth, as well as the rest of this province, have some of the finest emergency services available in the world. Our fire protection services will suffer from the impact of these negative changes in Bill 84, and if they suffer, then we will suffer, and then the public suffers. Thank you for providing me the opportunity to speak to you.

**Mr Garry J. Guzzo (Ottawa-Rideau):** Thank you very much for your presentation; it was very enlightening. The issue of part-time jobs is not something that you in the police department have any experience with, correct?

**Mr Husslage:** To this date, no.

**Mr Guzzo:** No police officers are running companies, doing painting jobs or doing house improvements or anything like that?

**Mr Husslage:** There are part-time police officers in this province.

**Mr Guzzo:** I'm talking about Hamilton-Wentworth.

**Mr Husslage:** In Hamilton-Wentworth, no.

**Mr Guzzo:** When you talk about a part-time firefighter, would a part-time firefighter also include an individual running a company generating gross billings of \$300,000 or \$400,000 a year doing home improvements, hiring his wife or spouse or children in operating a company like that?

**Mr Husslage:** I'm not sure I understand the question.

**Mr Guzzo:** The question is this: I want to know, in your opinion, what a part-time firefighter is. In Ottawa-Carleton, where I practise law, I've incorporated a number of companies for individuals in similar employment. Some of those companies generate \$300,000 and \$400,000 a year in gross billings.

**Mr Husslage:** Right.

**Mr Guzzo:** I want to know, from your perspective, is the individual running a home repair business which bills \$300,000 a year who is also a full-time professional firefighter, in your definition, a part-time firefighter or a full-time professional firefighter?

**Mr Husslage:** It depends on when he does that work.

**Mr Guzzo:** I see. How about a school teacher who might be fully trained as a firefighter, who in the summer months takes a couple of terms as a part-time firefighter under the provisions of this bill? Fully trained, meets the standards of the local municipality or of the province, but only works in the summertime: Would that be a full-time firefighter or a part-time firefighter?

**Mr Husslage:** My concern is not what a person does in the time when they're not being hired; it's what they do during the time they're being hired.

**Mr Guzzo:** I find that definition very, very vague. You see, I'm from eastern Ontario.

**Mr Husslage:** If I was fortunate enough to write music in my spare time and make hundreds of thousands of dollars, would that make me any less effective as a full-time police officer? What I do in my spare time, if it impacts me doing my job, absolutely, I would have a concern as a citizen and as a police officer.

**Mr Guzzo:** What about the school teacher who is fully —

**The Chair:** We're going to have to move on.

**Mr Ramsay:** It's sad to see that Mr Guzzo doesn't believe in the free enterprise system, that people can have businesses here in this province and that people maybe don't have the choice of where they work or how they work.

I'd like to bring it back to this bill, because I think you made some very important points, especially when you talked about emergency services not being a hobby and not being a part-time thing. I think you're very right.

While the way society is going, whether we like it or not, there is a lot of part-time work out there, I think we have to make a differentiation between a lot of work and emergency services, that it's a whole other type of



response that a professional has to respond to when it comes to emergencies.

I think you make a very good point, that it's important that full-time professional people handle those emergency responses, that it's not something you can do part-time, because you have to be so up to speed with your training and, as I started to say, you almost have to be in a focus or a zone to be doing that so that you're responding to that on a daily basis, so that you do that as a professional, do it every day, and so that you're there acting in those situations where, quite frankly, most of us wouldn't know how to react or, maybe because we're back at the plant or the office, just aren't in the rhythm of that to be responding to that situation. I think you bring up a good point, and I thank you for doing that.

1110

**Mr David Christopherson (Hamilton Centre):** Thank you very much for your presentation. It's good to see you here. To date I've had a fair bit of experience, at three different levels of government, dealing with fire services and police services. I can say, as a proud Hamiltonian, that we have the finest of both, and they'll stand up to a comparison with any other service in North America that I'm aware of.

You raised the spectre of privatization of fire services, and we know this government is hell bent for leather that anything that moves in the public sector ought to be privatized, because that's the golden goose.

What I want to hear from you is, given the excellent relationship that serves our citizens between firefighters and police officers, what do you think will happen to that relationship should we see the spectre of a privatized fire service and a remaining public police service? What will happen to the citizens in terms of that relationship that serves us so well here?

**Mr Husslage:** I believe it will have a dramatic impact on it. You're dealing with private companies, potentially, that could change every couple of years. The bottom line is that a company like that has one reason for being here, and that's profit. Like I said, I've seen it, the classic example being the arena on the hill. As soon as there is no profit to be made, in fact a loss, the company is long gone. What does that leave the community with? My concern is, from a policing perspective, how do we deal with enterprises that are fundamentally operating for the profit motive?

**Mr Christopherson:** I know the impact that the police association here coming forward and supporting our local firefighters will have on our citizens. I can only hope the government is listening to the importance of that kind of credible support to this important issue. Oscar, on behalf of all of us in my party, I want to thank you very much for coming forward today.

**The Chair:** Thank you, sir, for presenting here today. The committee welcomes Mr Christopherson, who is the member for Hamilton Centre — that's the second time today — and also Lillian Ross, who is the member for Hamilton West. Welcome, Ms Ross.

CAROLYNN IOANNONI

**The Chair:** Our next presentation is a private individual Carolyn Ioannoni. Good morning and welcome.

**Mrs Carolyn Ioannoni:** Thank you for letting me come. My name is Carolyn Ioannoni. I'm a citizen of Niagara Falls, and I am very concerned about the detrimental effects Bill 84 would have on public safety should this bill go through as is.

First let me explain briefly how I became interested in this subject. A local reporter did an article entitled "Firefighters Need Our Support." It was brief and to the point in informing the public of the ramifications of allowing the introduction of part-time firefighters; secondly, the understaffing problem we have in our city; and finally, the deplorable statistics of privatization, especially those statistics of a company called Rural/Metro, which operates in the United States and has also made proposals to some communities of this province.

This prompted me to go out and find out as much as I could about this bill and the problems our fire association had with it. There are many aspects of this bill that I feel will affect public safety enormously, for instance, allowing the hiring of part-timers. There are very few departments that use part-timers, and there must be a very good reason for that: It simply doesn't work. Places that have implemented part-time staff have abandoned this practice because there were too many problems.

Firefighting is a team effort, and in order to work effectively and safely in the circumstances they face on a daily basis, it is crucial that they be able to not only read each others' minds but anticipate each other's moves. Adding firefighters who work only 15 to 20 hours a week will not permit them the bonding time they need. The cost here could be the loss of life of either a firefighter or someone they are trying to save.

The thought of working on an on-call basis is the easiest provision to criticize. This is simply not debatable. Coroners' juries have almost always identified response times as the key factors in saving lives.

Response time is the most crucial aspect of survival. For instance, the response time for a heart attack is between six and eight minutes. Imagine the time lost in having to call someone at home and have them drive in to answer the emergency call. The minutes are a crucial factor in the lost time, and the cost will be the same as my last point, the loss of life.

Accompanying my letter is a letter from Dr D. Munkley, the medical director of the Niagara Falls firefighters defibrillation program. I'd like to read it to you, because he wasn't able to attend.

"Dear Chairperson:

"I am the medical director of the Niagara Falls firefighter defibrillation program. In Niagara, as in many municipalities in Ontario, firefighters respond to the scene of critically ill heart patients. They can apply an electrical shock with a defibrillator which may restart the heart. Many hours of training and retraining are required to assure the quality of this important task of our firefighters.

"This program has been in operation since June 1995 and it is the commitment and professionalism of all firefighters that has made this program a success.

"I strongly oppose any legislation that could undermine the ability of firefighters to provide a quality defibrillation program for the people of Niagara Falls.

"Although I am unable to attend the hearing for Bill 84 in person, I trust my concerns will be heard.

"Yours sincerely,

"Dr D. Munkley

"Medical Director

"Niagara Falls firefighter defibrillation program."

You have this for your record.

I think the most frightening provision in this bill is the one making it easier to privatize the fire service. The US has experimented with this and it was a failure. The largest private company is Rural/Metro of Scottsdale, Arizona. Their record is enough of a horror that you should agree this should never be permitted here. They have been removed in cities over questionable billing practices and high rates. A municipal fire department in that city now provides more staff at lower costs. They have been known to take over half an hour to arrive at the scene of a fire, only to admit they were the backup unit and had no water. The water truck took another 30 minutes to arrive. Can you imagine your constituents putting up with this problem?

Another story tells of how a woman watched her house be totally destroyed as firefighters stood and watched it burn. It had taken Rural/Metro 14 minutes to get there, and the truck only had enough water for three and a half minutes of firefighting. One of the trucks also had to be towed away after breaking down in front of her home. The stories only get worse.

With a private fire company, the way to access its services is to subscribe by paying a fee. What about those people in a municipality who cannot afford to subscribe? What happens to them? With Rural/Metro there has also been a problem with homeowners receiving a bill for services rendered, or services not rendered as some instances would have it. I also feel you would see a great delay in people calling for help if they know they are going to be billed for the service. Imagine some of them trying to put out the fire themselves in order to save costs and avoid billing, increasing the possible risk of injury, loss of property and, again, the loss of life.

I recommend that this committee review a tape on the hazards of privatization called *Public Safety For Sale* if you haven't already done so. The question I am asking you is: Do you risk the lives of the citizens of this province simply to save money? Your voters would say no, especially when the life you risk may be one of their loved ones.

In support of our firefighters, I did not come here today on behalf of an association, but because of my own private concerns as a public citizen. But let me say this: I have listened to presentations from firefighters begging you to listen to their concerns and asking you to help them. Frankly, I am appalled that they even have to ask you this over and over again. It strikes me that if the time comes when any of us or any of our loved ones are unfortunate enough to get in the situation where we need the help of these men sitting behind me, you are not going to have to ask them again and again to be there. They will respond because that is what they are trained to do. It is instinctual to them, and it is their job. They will be there for you as I feel you should be there for them right now; that is your job.

Thank you for the opportunity to speak to you and address my concerns. I hope you not only listen but act on the concerns you have heard from everyone involved.

**Mr Ramsay:** Thank you, Carolyn, for making your presentation. I think you put it very succinctly with your question: "The question I am asking you today is: Do you risk the lives of the citizens of this province simply to save money?" I really think that's what this is about. We all know that why we have Bill 84 here is because this government has embarked upon a major downloading to municipalities in order to save money and also to pay for a tax cut. What they want to do is give the towns and townships and the cities of this province a tool. Like Bill 26, Bill 84 is another offloading tool for them to use. I liken it to a loaded gun.

Robert Runciman, the Solicitor General, says: "I'm not really pushing privatization of fire departments, but I'm going to give you guys this loaded gun. Now, you don't necessarily have to use it, but in case you have to, it's here." That's really the concern we have, that with all the pressures and all the very best management attempts by municipalities, they're going to start to look at areas such as emergency services to make cuts. I think that's absolutely wrong. As you have mentioned, some of the tools in here would be like the privatization of that service.

**1120**

In all our experimentation of reinventing government and trying to restructure it, I think we have to make a stand to say that, at a minimum, public safety and security issues have to remain a core function of government, not only because that service has the public good at heart but also because there is public accountability always, through our locally elected politicians and our provincial politicians, for those services.

I think that's very important. You've brought that forward in a very dramatic way today and I appreciate your doing that. Thank you.

**Mr Kormos:** It was interesting that Sean McManus, the Canadian director of the International Association of Fire Fighters, came down from Ottawa to Kingston yesterday and he drew the irresistible conclusion that privatization was very much a part of the agenda here.

Why else would the bill define "employer" as not just a municipality but also a person or organization that employs firefighters, like Rural/Metro, with their grand record in the United States? Why else would the legislation forbid the right to strike to professional firefighters who have never gone on strike? Why else would the legislation give the employer, be it a private organization, corporation — maybe one of those corporations that corporate lawyers like him incorporate — the arbitrary right to determine work hours? Why else would this government rewrite arbitration rules and change the long-established common law so that an arbitrator has to take into consideration — catch this — the employer's ability to pay in light of its fiscal situation?

Yes, a municipality, if it's a public firefighting service, but a private corporation that can hide profits and show itself to be in a bad economic light is also the employer when we've got privatized firefighting services. This bill was written to grease the way for their corporate buddies from the States to come in here and set up private —



**The Vice-Chair (Mr Ron Johnson):** Mr Kormos, I'm sorry, your time has expired.

**Mrs Ioannoni:** Are we able to respond?

**The Vice-Chair:** If Mr Kormos had left you enough time to respond, you would have been able to respond, but unfortunately, he didn't.

**Mrs Lillian Ross (Hamilton West):** Thank you very much for your presentation. I want to ask you a couple of things with respect to some of your comments. On the first page, you commented about the hiring of part-timers. Are you aware that some municipalities currently only have volunteer firefighters?

**Mrs Ioannoni:** Yes, I am. I live adjacent to a community that only has volunteer firefighters.

**Mrs Ross:** I get the impression from what you've said that you don't feel part-timers are qualified.

**Mrs Ioannoni:** I did not say that. What I said was that I do not feel that putting somebody in 15 to 20 hours a week on a part-time basis would allow them to work with their teammates at a level that will help save their teammates' lives, should they need it, or the people they're there to save.

**Mrs Ross:** What about volunteer firefighters?

**Mrs Ioannoni:** I live adjacent to Chippewa and we have a very good volunteer fire department. But you cannot regulate your volunteer firefighters' off time and you cannot regulate part-timers' off time. If you're going to work on a part-time, call-in basis, how do you regulate what they're doing? Are they mandated to sit home and wait for the call? What are they mandated to do on their off time? What if you're phoning someone who's in the middle of a backyard barbecue and has possibly been drinking? How do you mandate someone who isn't required to come in and is working on a part-time basis? There are no provisions for that.

**Mrs Ross:** For example, in Glanbrook, which is part of the regional municipality of Hamilton-Wentworth, they have volunteer firefighters and they work extremely well. I think they're pretty proud of the work they do there.

Would you think there could be some areas where volunteers or even part-timers could be used for example, in areas like educating the public, fire prevention, that sort of thing? Would you not feel that volunteers or part-timers who are trained, who could go out there and help educate the public, could be used in those instances?

**Mrs Ioannoni:** I think our full-time staff is already doing a very good job on that. Whereas fire prevention is not mandated right now, if I understand it correctly, it will be mandated under your bill. I know my children are learning it in school, and I know that the full-time people doing that are doing a very good job, so why replace it? If it isn't broke, why fix it?

**The Vice-Chair:** We are out of time. On behalf of the committee, thank you very much for your presentation.

#### NATIONAL FIRE PROTECTION ASSOCIATION

**The Vice-Chair:** Our next presenter is Mr Richard Morris of the National Fire Protection Association. Good morning, sir.

**Mr Richard Morris:** Good morning, Mr Chairman. I've brought along my friend Sparky, the fire dog. I

welcome this opportunity to address you today on the fire prevention and public fire safety issues of Bill 84, because I am convinced that public education does reduce risk and save lives and dreams for the future. Just think about that for a moment. Public education saves lives and dreams for the future.

I'm here, not only as chairman of the National Fire Protection Association and its 68,000 members around the world, but also as a father, a grandfather, a member of the Fire Marshal's Public Fire Safety Council and a concerned citizen of this province. As a fire safety advocate for over 43 years, I want to make sure that Ontario leads the charge in reducing the risk of loss of life and property from fire by endorsing the fire prevention and public fire safety elements contained in Bill 84.

As a Canadian and the first non-US chairman of the NFPA in over 100 years, I am honoured to represent the true international scope of NFPA on the board and to bring an international perspective to this hearing. I also know that the real key to solving Ontario's and the world's fire problem is to waken the people to the fact that their safety is their responsibility, that it's up to all of us to choose to be safer from fire by maintaining a fire-safe environment and by ensuring that everyone around us — our families, our friends, our colleagues and even total strangers — know what to do to prevent and protect themselves from fire.

I am firmly convinced that fire prevention and fire safety education is a very essential and vital ingredient in solving Ontario's fire problem. I am encouraged that these measures are contained in Bill 84, and believe they will significantly improve the quality of life of every citizen in every community of the province, because public education reduces risk and saves lives and dreams for the future.

In 1996 more than 5,000 people died in fires in North America. That's more than 14 per day, and 11 of this total, or 80%, die every day in their own homes. Tens of thousands more are injured, many hospitalized with severe burns and some disfigured for life.

Fire can happen to anyone at any time, the very young, the baby-boomers, the older adults. In Ontario last year we lost 126 people, the majority in the high-risk groups: under 10 and over 60. I ask, how can this be? Why isn't there a national uprising against North America's and Ontario's unacceptably high fire death rate?

Five thousand fire deaths every year: That's equivalent to a 737 jet crashing and everybody on board being killed about every 14 days. Think about that for a moment: a jetliner crashing every two weeks, or once every other week, throughout the year. You bet our citizens and our senior politicians here on this continent wouldn't stand for such a persistent horror. Of course, the 5,000 people who die in fires every year here in North America don't die together by the hundreds. Most die in ones and twos in their homes. They don't know how to prevent and protect themselves from fire and they don't know how to prevent fires from happening in the first place. As a result, their stories usually end up on the back page instead of page 1.

Society's complacency towards fire is a critical element. We must address it if we are to make a differ-

ence in fire deaths and fire injuries and fire-related losses here in Ontario. NFPA is convinced, and so am I, that it's possible to break through this crust of indifference, but it's going to be a colossal challenge. One way or the other, we have to beat apathy big time, through increased public awareness and educational programs that will help every man, woman and child understand the risks, the dangers, the suffering, the costs and the devastation associated with fire. We must teach people everywhere how to protect themselves from fire, and better yet, how to prevent fires from happening in the first place.

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I am convinced that we can wipe out the fire problem in our lifetime. But will we do it? I certainly hope so. The challenge is tough. The reward is sublime. The fire prevention and education measures in Bill 84 will make a difference in this province.

Researchers who compare fire statistics of North American communities with those of other countries are quick to point out that we have one of the highest fire death rates in the world. The disparity is shocking. Death rates relative to population are lower in all the countries that we, in America, consider like us. The gap is closing, but it's still better than two-to-one compared to countries like Japan, England, Switzerland and Sweden, even though during the past two decades we've mandated smoke detectors in more than 90% of our homes, we've legislated fire-resistant clothing and bedding, we have stricter building codes, more vigilant inspections and highly efficient, modern fire departments and better-trained firefighters.

Even though we know that education is typically the most effective way to universal fire safety, we too often give fire safety education lip-service only, and we continue to lose billions of dollars a year to fire and tens of billions of dollars more just to protect ourselves from getting even worse.

International studies show that other countries spend more money on public education and public awareness than we do. The British government spends five-to-one on education compared to us, and in Japan anyone who causes or fails to prevent an accidental fire may be driven to shame by his neighbours, whereas here we merely bring blankets and the firesetters walk free.

The long-term answer is public education. Russ Sanders, a former fire chief of Louisville, claims, "The only realistic long-term way to eliminate needless loss of life and property is through public education." The Louisville fire department's philosophy was very simple: "Any time we must go beyond public education, we are reacting to failures.... And if we continue to respond with our lights flashing and sirens screaming to needless death and destruction, the body bags and destroyed property represent our ultimate failure in educating our citizens."

The results of this change of mission and philosophy in Louisville were very impressive. In the course of five years, and it took nearly two years to retrain the fire-fighting personnel, fire-related injuries dropped 50%, fire deaths dropped 35%, firefighter injuries dropped 16% and the property loss was down 19%. Prior to that, they were losing six to seven children per year in Louisville. After

implementation, they went three consecutive years without losing a single child.

Virtually every fire department in Ontario carries some form of public fire safety education. Some departments have great programs, but only a few truly reach the majority of the population with quality programs and effective, measurable continuity. The city of Brockville and the surrounding counties of Leeds and Grenville is one community that can boast that they do indeed regularly reach most of their population with effective fire safety awareness programs on a regular basis.

During the 10-year period of 1974 to 1983, Brockville, a community of 21,000, lost 18 citizens, 3.5 times higher than the provincial average. In Leeds-Grenville, including Brockville, from 1979 to 1983, they lost 22, giving them twice the provincial average. In May 1984, the fire chief in Brockville and his chief fire prevention officer vowed to solve their fire problem and to change from primarily being an inspection agency to that of a public education agency.

Following extensive research, they determined that the NFPA's teacher-friendly, Learn Not To Burn curriculum was the answer to their fire problem. In October 1987, Brockville launched a comprehensive program to implement Learn Not to Burn in all their school classrooms throughout the division, including 45 additional schools in Leeds and Grenville, with tremendous support from all fire officials, teachers, service groups and other resource partners.

This community had these resources in spades and in the 10 years since implementation, Brockville and the counties of Leeds and Grenville have only lost two people to fire, one of which was self-inflicted. That has become the model community for the national launch of Learn Not to Burn in all elementary schools across Canada.

In the three short years since Canada became the first nation to implement the Learn Not to Burn curriculum in the school system — which is now available to all schools across the country, but only about 60% currently use it — we have had 15 save incidents, with a total of 36 lives saved, in which knowledge gained from Learn Not to Burn by children in kindergarten to grade 3 has directly contributed to saving lives or preventing serious injury from fire.

Typical examples of a few saves are highlighted in the report which I've left for you. But there's more good news. Saves do not take into account fires and burns that never happened, the tragedies that never occurred and the lives that were never lost because people knew what to do in a fire. Sometimes it's what you don't hear about that's a true measure of success. So when I ask people, "Does Learn Not to Burn really work, and do the dozens and dozens of other great programs being utilized here in Ontario really work?" the answer, and we say it with pride, is yes, they really do work. Hundreds and hundreds of saves throughout the United States and Canada are living proof, people and their families who are living today because of education.

Ontario has many outstanding programs, as I said, such as Alarm for Life. They have a program for preschoolers. They have Learn Not to Burn in the school system. They



have great partnerships with the fire service and the teachers and the fire marshal's office. They have media support. They have saves to use in promotion. They have educational symposiums that they put on every year. We have fire prevention week and we have smoke alarms and we have sprinklers and we've got great fire departments. We also have many innovative public educators and highly dedicated fire prevention officers with a great deal of technological knowhow. Yet we still lose too many people to fire and have one of the world's worst fire death rates in the industrialized world.

The largest single problem is outreach. We need to explain to every man, woman and child that there is a fire problem. We need to tell them what the nature of the fire problem is and what people can do to protect themselves and their loved ones from fire. Repeated exposure is an effective way to increase outreach, and every community and every hamlet in the province must be exposed to high-quality fire safety messages over and over again.

Fire safety education is not complicated. It is not changing deep-rooted beliefs or cultures. Our citizens are generally complacent. They don't practise fire safety because they are not exposed to it enough and because they don't have the information that prompts them to change their attitude and apathy to fire.

Occasionally, there are watershed moments in our careers where we see with absolute clarity that we're moving in the right direction on a particular issue. One such moment is here on the horizon in Ontario in the form of Bill 84 in the fire safety education and fire prevention measures. I am convinced that mandating public fire safety in your town, in my town and in all the towns, villages, cities and hamlets throughout the province will have a lasting impact on the future of fire safety in Ontario and will significantly contribute to our goal of making Ontario one of the safest communities from fire.

I thank you for giving me this opportunity to make a presentation.

**The Vice-Chair:** And thank you, Mr Morris, for your presentation. I'm afraid your time has elapsed.

1140

#### ALAN BRUNACINI

**The Vice-Chair:** Our next presenter is Mr Alan Brunacini. Good morning, sir. You'll have 15 minutes for your presentation. You may begin anytime.

**Mr Alan Brunacini:** Good morning.

**The Vice-Chair:**

**Mr Elliott Hastings:** If I may, Mr Chair and members of the committee, my name is Elliott Hastings. I'll be making a presentation to you later. I simply wanted to take a moment and introduce Chief Brunacini from the Phoenix fire department and indicate to you his credentials, which have been distributed to you this morning.

Essentially, Chief Brunacini is the guru within the fire service. The Phoenix fire department is seen as the most progressive fire department in North America, under the capable leadership of Mr Brunacini. He has written a number of books, the most recent dealing with the essentials of fire department customer service. I give you this morning Chief Brunacini, who is probably asked to

go to more seminars and presentations, whether it's the fire chiefs, the fire marshal's office or firefighter associations. This man is under constant demand because of his experience and credentials. Chief Brunacini.

**Mr Alan Brunacini:** Thank you, Mr Chairman and members of the committee for the opportunity to make a presentation this morning. I've already enjoyed the proceedings this morning; they were educational to me. Mr Kormos, we in the desert say, "Where the sun doesn't shine."

**Mr Kormos:** You're in the north now.

**Mr Brunacini:** It is probably just an orientation of living in the desert in the process.

I would like to talk a bit with you this morning about privatization. Let me put this on the record. Somebody asked this morning, "What special interest group do you represent?" I'd like to start off with that. I represent Mrs Smith. Mrs Smith is the normal, regular, nice person who lives down on the corner who sets her kitchen on fire occasionally, not on purpose, and then she depends on our service. I would like to speak about her relationship to a public fire department or a privatization-oriented fire department.

A fire department is pretty simple. It is designed to intervene. It's one of the few government services that is in place, in a very decentralized and a very action-oriented way, simply to interrupt the fire while it's burning. The difference between being able to do that in an effective and timely way and witnessing a fire that has already occurred has an enormous impact on the customer, very simply.

The bad news I have is that firefighting is with us, at least in the context we see today. I certainly agree with my former colleague Mr Morris about public education. My fire department was one of the test cities for Learn Not to Burn, and we have, in an escalating way, operated very active public education programs since then.

Somebody here has already mentioned sprinklers. Just to put this in the system, if we sprinklered every building that was built in the next 100 years, at the end of that century, 80% of the buildings would still be unsprinklered. The capability we have of using sprinklers as a very logical and effective intervention, in our systems of government, is really not very practical. My point is that firefighting is with us in the process.

Firefighting is essentially a manual-labour-oriented activity. We are effective to the extent that we can deliver standard teams of firefighters within the window of opportunity, as I said before, to intervene. It has always been that way, it is that way now and it probably will always be that way.

The most timeless dimension of your deliberations here is simply the reality of fire. Fire has not changed much, again, since the beginning of time, and we certainly don't see that much on the horizon.

The privatization issue has been an interesting one. I live in a place that has been very active in looking at new, different, better ways to operate government. I have had that as a piece of my career since the beginning of that career.

One of the things I have noticed, and we need to say this very simply, is that the allure privatization has for

government is simply that you can do it cheaper. I wasn't a math major, but I've noticed that if you send, in a career fire department, about half the firefighters home, you can do it for about half as much. While that may be tantalizing in the beginning of that process, show time for that is simply when Mrs Smith has her kitchen fire. Simply, that process and that approach, at least to manual firefighting, comes up consistently short when she needs those services.

The dilemma for Mrs Smith is that she doesn't know that until she has the fire. There is very little difference in the perception between an adequately staffed and adequately resourced fire department and one that isn't until there is a fire. That sounds very simplistic, but that's the reality we operate in as firefighters.

Mr Morris described the men, women and children, and we would certainly think of those as the three major causes of fires. Those men, women and children have a very special relationship to the firefighters who extend service to them. I guess the word we would use is, simply, they trust us. In our forms of government, the fire service is typically the only agency which can enter a piece of property without a search warrant; certainly that's the case in America. That's a pretty special relationship, and I think that is characterized by an incredible level of trust.

I hear comments everywhere I go — I certainly hear them in my own city where I live — that government is too big; it's too slow; it doesn't care; it's too bureaucratic; it's not progressive; "We don't trust them," as we say; it costs too much; it's unresponsive; government is not nice; there are lots of rules and regulations.

You probably haven't thought about this much, but when you call your local fire department, we will ask you two questions: Where are you, and what's the matter? Based on that, we're out the door. That's a pretty exceptional service, either public or private. There's no paperwork, there are no forms, there's no application, there's no interview with a mindless bureaucrat. Simply, we're out the door. We don't ask your socioeconomic status. We honestly don't care whether you can pay for the service or not, because it's a service that is already prepaid. That's a pretty exceptional difference, if you look at that form of government, from what most folks simply are concerned about. You can't get three-minute or four-minute service if somebody — and please don't do it just to find out. If you go to the pay phone, dial 911 and say, "I'm at the Sheraton; I smell smoke," probably by the time you hang that phone up, you're going to hear sirens. The service is that quick.

If you look at the way the service has been refined — let me say that advisedly — in the last two decades, we are clearly not too big. We are probably delivering fire services in both of our countries with about two thirds of the structural fire resource that we should.

To say that firefighters don't care: When you become a firefighter, you make a promise that you will put your body between Mrs Smith and the fire. Necessarily what comes with that job is the exposure that sometimes, very simply, you put it on the line for Mrs Smith. That ain't a business deal; that's a deal that involves the way firefighters feel about what they do. It seems to me that

is one of the things that people observe is wrong in government when it isn't there; it's here, in the process.

They say, "We can't trust government." I mentioned before that in my fire department we're very active in the delivery of emergency medical services. What that means in practical terms is that if you have a blue T-shirt on that says "Phoenix Fire Department" on the back of it, you can be in the back bedroom of Mrs Smith's house at 3 o'clock in the morning and cut the pajamas off her eight-year-old daughter. I have an eight-year-old granddaughter, and I would be pretty picky, just like you would, about who gets to cut her pajamas off her. What I would say is, simply, it doesn't get any better than that, public or private, in the process.

I could go on about all the other virtues of the fire service. I have noticed that when we privatize — I said it very simply — the allure for some reason is that we can do it cheaper, and that's better. I don't think that is a positive change when we think about what a fire department does in a community. A fire department in a community is typically an organization that is the result of probably 10 or 12 generations of people who have made an investment in a service over that period of time.

The Phoenix fire department — let me just use it as an example — is 111 years old. For 111 years, the citizens of Phoenix have invested in developing that system that protects Mrs Smith. That's a very cultural, very historic, very personal relationship. I think it's the part of government — let me repeat myself — that works the way Mrs Smith wants government to work. It would seem as though the Legislature should make the rest of government look like us. I say that, obviously, in a very parochial kind of way.

At the risk of overdramatizing the rest of my presentation, perhaps I can shut up. If you have any questions, I'd be happy to visit with you.

**The Vice-Chair:** Thank you, sir, for your presentation. Two minutes per caucus.

1150

**Mr Kormos:** I've got to tell you, we're proud, as we heard from the previous presenter, about the government's initiatives on making fire prevention and fire education mandatory. We think that's important and we're prepared to support that part of the bill. We're horribly concerned about part IX of the bill, which facilitates privatization of services, and the part of the bill that permits part-time firefighters.

I'm familiar with one of the Carolinas. In Durham they dealt effectively with part-time firefighters and then disbanded it in 1985, I believe, after some extensive experience, because part-time firefighters simply didn't have an adequate response time, an effective enough response time to be of use. Can you talk about the issue of part-timers and perhaps the Durham study, if you're familiar with that? I'm confident you are.

**Mr Brunacini:** Let me give you just a snapshot of a part-time system. We use it, and I think Canada does too, for wildland firefighting. They have what they call seasonals. In other words, they're generally kids who want to become career firefighters, who work in the summer. They work on the task level of the operation and they do one kind of firefighting. It is truly manual labour, because



if you look at the prehistoric tools they use in wildland firefighting, that's a long summer for a 20-year-old kid.

I am not comfortable with part-time firefighters doing the complicated, multirisk kinds of things that urban firefighters do. I would resist that in my own fire department. Being a firefighter today is more than a full-time job. I am not comfortable with part-time firefighters simply because of what we call upon firefighters to do today. It is an absolute professional experience for somebody who dedicates their life. In other words, you come in at the bottom, you work your way through that system. In effect, it's lifetime employment. Most of the fire departments represented in this room have virtually no turnover, and that's another piece of the trust that the body politic has in firefighters. We are permanent employees affixed to our communities in a career kind of way. We're not transitional, we're not temporary, we're not moving through employment.

**Mr Klees:** Thank you for your presentation. Just for the record, I want to assure you that here in Ontario we have the highest regard for our fire departments and for our firefighters. This is not about wanting in any way to undermine the profession. We have a piece of legislation before us that we want to improve through this hearing process, and that's why we're here. We thank you for your contribution.

Can you help me with this: Are you aware of any municipalities in the United States that contract out their fire service to another municipality?

**Mr Brunacini:** There are many that do that.

**Mr Klees:** So the concept — because I think this is very important to put into context — of one unit hiring out its services to another municipality is not foreign and it does happen. I'd just like to know from you, is that an effective way of delivering service or do you have a problem with that?

**Mr Brunacini:** In America, in the cases I was thinking of when I answered your question, those are fully staffed, professional fire departments that provide labour services to those communities. Let me give you an example. The Los Angeles county fire department protects about 100 other communities with fully staffed, professional, full-time firefighters who work in a system that has an administrative connection between that fire department and that community. Historically, that has been a very long-standing system. But they represent that community in a very special way.

**Mr Klees:** In your department, can you just tell me how many of your professional firefighters would be excluded from a bargaining unit for the purpose of providing management services?

**Mr Brunacini:** Historically in our department, command officers are not members of the firefighters' bargaining unit. That's a fairly common practice and custom in the United States.

**Mr Klees:** And the reason for that?

**Mr Brunacini:** We just developed around that process. Those command officers would have a very close association with the firefighters in the process, and that's just historically the way we were structured originally in the American fire service.

**Mr Ramsay:** Chief, thank you very much for coming up. It's a real honour for us to have your expert testimony here today. I really enjoyed very much your presentation. I just want to hear more from you and I wanted to ask if you have anything more to say about privatization and part-time work, because you made some points that putting your life on the line isn't a business deal. I think that's a very strong statement. You started to talk about part-timers not being as fully prepared. Could you enlarge on some of that, about part-time and privatization and what's wrong with that?

**Mr Brunacini:** I just reiterate what I said. If we look at the responsibility, the functions, the service delivery that professional firefighters, career firefighters are involved in who typically protect urban areas — in other words, the volunteer fire service does an adequate and many times a very, very effective job in rural areas. When fire activity, when emergency response become so frequent and so intense and so complicated, if I may, in a full range of services, the system is challenged to be able to deliver adequately trained, motivated, committed humans to Mrs Smith in a part-time configuration. It is simply a full-time job. That's just a reality when we look at the full range of services Mrs Smith requires to get through the day, in effect.

Again, the reinvention movement was based on government was bad, the private sector was more — I mean bad in the sense that we were slow, we were not effective, we weren't progressive, we weren't connected to reality in a current sense. That simply is not true, particularly in the fire service. If you look at the fire service in this community and in your province, it is one of the most progressive services there is probably any place in the process. It's the most cost-beneficial from the standpoint of its being refined over the last 25 years, in all the recessions and all the other adventures we've been through to right-size. We hear all this business about right-sizing.

I mentioned it before: We call upon firefighters to do probably a third again what we would, in standards, require firefighters to do. That's a reflection of the commitment, the dedication, the intelligence, in other words, simply the way firefighters feel about what they're doing.

But there's no substitute for the relationship between Mrs Smith and that firefighter. Those firefighters are part of her neighbourhood. They live down on the corner in her fire station. Let me repeat what I said before: That is not a business deal, that's a relationship of a fire department family protecting the Smith family.

It seems to me that as far as government is concerned, they should cherish that in the process. They should showcase it. They should exhibit us, I believe, as, "This is the way government should behave and operate in the process." I think there are a lot of other excellent examples in government throughout; local government and state government and all the rest of it. I don't mean to be so focused on the fire service, but that's what I'm focused on.

**The Vice-Chair:** Mr Brunacini, thank you very much for your presentation.

*Applause.*

**The Vice-Chair:** By the way, that's not allowed. That was our final presentation of the morning session. We stand recessed until 1 o'clock.

*The committee recessed from 1158 to 1310.*

#### ONTARIO FEDERATION OF LABOUR

**The Chair:** Good afternoon, ladies and gentlemen. Members of the committee, I see a quorum.

I apologize to our first presenter, Mr Gordon Wilson, of the Ontario Federation of Labour, for starting 10 minutes late, as it is 1:10. However, we will allot you the full 15 minutes, of course, and I'd ask you to proceed with your presentation.

**Mr Gordon Wilson:** I'm certainly happy to be here to make a few comments on Bill 84. At the outset let me state the obvious, that Bill 84 certainly proposes significant changes in fire protection, not only the legislation but the manner in which it's applied at the most fundamental and important level, that of course being those who are the consumers of the service, the taxpayers and citizens of Ontario.

I note, as you have, that Bill 84 is opposed by a significant number of persons within our province, primarily of course by those who have to go into fires, the firefighters. They do so I think not only in their own consideration but certainly in consideration of the public, because they believe that the bill ultimately will set the stage for a compromise of fire safety in the province of Ontario. Firefighters, like police, all of us must appreciate, have to be well trained. I understand it takes at least four years to train a first-class fire person. I would want to see them as they are, dedicated to the job to the degree that they are. Certainly, they all act as part of a team on a fire scene, if you've ever had the opportunity, and I'm sure you have, of watching firefighters work in our province.

All those significant qualities I feel can't be achieved if we're talking about putting people into firefighting situations where somebody just left a shift somewhere else or another job somewhere else and comes to the fire as a part-time firefighter. You can't do that and be an efficient and effective firefighter on behalf of the constituents you're trying to respond to.

I would think it a fair question for us to ask all of ourselves — you to ask yourself, me to ask myself — what kind of a person do you want on a fire scene if it happens to be your house that's on fire, or perhaps a nursing home where you have a family member? You want to make sure that you've got a top-quality firefighter there on the scene who's extremely effective. We all know that in order to be effective, firefighters have to move fast and they have to move smart. That kind of activity and reaction only comes from experienced firefighters who are full-time on the job.

The other concern I would like to relate to you on behalf of the 650,000 workers and their families who are represented by our federation — and first of course to appreciate that I'm here to represent them as that, as families, as citizens, as taxpayers who are concerned about their safety. In looking at the total legislative agenda of the current provincial government, we all know

that as the offloading will continue from other pieces of legislation, including this, many Ontario municipalities will find themselves in a considerable squeeze with regard to resources.

You have to ask yourself, after putting municipal politicians into that position, what are they going to do on behalf of their constituents who are the provincial constituents as well? We all know they're going to be looking for ways to cut expenses. They're going to try and find a way to balance their budgets. What concerns me, of course, is the avenue that the bill provides for privatization of services. I understand earlier today you had an opportunity to listen to a fire chief, who I assume is not a union member, who made it very clear about some of the experiences they have had in the United States under privatization.

One question I think the committee has to ask itself is, if Bill 84 were to pass in its current form, what does it do to prohibit private companies from entering the fire-fighting services? The reality is the question has to be answered that it doesn't do anything to prohibit that. If you want to take that to its logical conclusion, what does it do to prevent US companies from bidding and engaging in a process to deliver those services to communities? The answer is nothing can prohibit it. The free trade agreement and the North American free trade agreement prohibit any — I'm looking for the word — favouritism or any special treatment of Canadian firms over American firms. We all know, of course, that the Americans are very good at bidding into other countries for other services and other jobs.

I guess you have to ask as well, where privatization is taking place, what has been the record of private fire-fighter companies? In the research that we have done, I think it's fair to say it's reasonably dismal. Whether you look at it from a dollars-and-cents cost perspective or whether you look at it from a safety perspective of the constituents that service is being delivered to, if you were to compare Ontario firefighting services to those services that have been privatized in the US, you have to conclude at the end of that comparison that our service to our people and our citizens is far superior to what we have seen in the United States, so why would we want to do this? The question has to be asked. Why would we want to open up a service so important to all of us to the possibility of privatization?

Let me close by saying that I would urge this committee to act as best it can, and I'm sure you will, in the interests of the constituents who have elected you and in the interests of all of the constituents who are not here and won't have the opportunity to be before this committee in speaking to the measure of their required safety in their municipalities with regard to fire services.

I don't want to close by letting anyone here think that I'm entirely negative about the process of Bill 84, because there is some good stuff in the bill that I hope the committee would want to maintain. As an example, there are of course municipal requirements specified for public education. I think that's extremely important with regard to fire prevention. The flip side of that, which I would just add a caveat to, is if you are considering that, then surely you have to also consider how that's going to



be financed so that it is not just the municipality out there again in the same situation as a privatized scenario, trying to find where it will get the resources to be able to deliver this public education, and if you're not providing them any financing then of course it just becomes one more brick on the load with regard to downloading.

On behalf of those members I represent, who are taxpayers, who are individuals with families in the province of Ontario, who are concerned about fire safety, I urge this committee to give serious consideration to redrafting this bill as soon as you can so that it reflects, along with firefighters and taxpayers, the interests of both those who are the recipients of this service and those who have to deliver it. That concludes our remarks and if you have any questions, we'd be more than happy to try and respond.

**The Chair:** Thank you, Mr Wilson. We have approximately two minutes per caucus. We start off with the government caucus.

**Mr Klees:** You use the term "set the stage," and certainly that's what this legislation, as any piece of legislation would do, is to set the stage. I think you'll agree that ultimately the performance that we have on that stage depends on the professionalism of the players. In this particular case, we're dealing with firefighters, we're dealing with professional fire chiefs, we're dealing with municipal mayors and councillors and aldermen.

In order to deliver the levels of safety that you're appealing for, on which point, by the way, we don't disagree — I can assure you that it's the intent and the will of the government to ensure the highest level of safety — of those players we've referred to, where do you feel the most distrust, if you will, to ensure that the stage has the benefit of the best possible performance?

**Mr Wilson:** What happens here is that when you download the responsibility in part to municipalities, it becomes very difficult to set a standard that will apply unless it's rigidly enforced.

But I want to clear a point up if I can, Mr Klees. I mean to make it very clear that what I'm seeking here is to maintain the current standard of fire prevention. I think the fire prevention level that we have experienced in this province is second to none anywhere in North America, indeed anywhere in the world. I think it's also important to look at who's saying that what's proposed in Bill 84 by and large is not appropriate. The people who are doing that are people like myself, who are recipients of the service and, important as well, those people who deliver it.

If you just look at what's happening in terms of the activity before this committee, you have to accept that there is a preponderance of opinion which says clearly that Bill 84 is seriously flawed. I suspect, although I don't know, it was drafted in some isolation from those people who are the practitioners and certainly those people who are the public, who are the recipients. If you want to make a bill that's going to serve the interests of the constituents, you can't do that without involving primarily and focusing upon those people who deliver the service and those people who receive it.

**The Chair:** Thank you, Mr Klees. We must move on now. Mr Ramsay.

**Mr Wilson:** I wouldn't have cut you off.

**Mr Klees:** He does it all the time.

**Mr Wilson:** You're in the wrong party. We can help you out. Either you or him; I don't know which one.

**Mr Klees:** We have principles.

**Mr Wilson:** I'm looking forward to seeing them.

**Mr Klees:** Stick around.

**Mr Wilson:** He's fighting harder than I am. You're in trouble.

**Mr Kormos:** Chair, we will give our time to Mr Klees. Just keep on going, Frank.

**The Chair:** Mr Ramsay.

**Mr Ramsay:** Mr Wilson, thank you very much for coming before our committee. I appreciate that you had really narrowed most of your comments to the safety aspects of this bill, but obviously you bring a lot of expertise in negotiation and bargaining, and I wanted to get your opinion on what you think of this part IX specifically, one of the very onerous sections, which will no longer allow firefighters to negotiate their hours of work. I was wondering what you thought of that and what you think that might do to the morale of workers in a fire department.

**Mr Wilson:** In today's complex world, I think removing the ability of people to have some determination over the hours that they must dedicate to their family — that's what we're talking about. The hours you spend at work you aren't spending with your family, and that's the issue here. I don't know where this one came off the wall from, but I find it difficult to accept that hours of work are not negotiable.

There is not any sector in the economy that I know of where people have a collective bargaining environment where they do not engage in the process of bargaining their hours of work. This would be the exclusion.

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**Mr Christopherson:** I want to follow the same line, only take it a step further. I think there needs to be a lot of focus on the encouragement that this government gives to privatize all public services. They'll argue that some of the ability to privatize was already in existing legislation, but they certainly have opened that up a lot wider, and it's the philosophy of this government that anything they can privatize that's in public hands now is a good thing, regardless of the substantive arguments that might be contained within that debate.

How would you think that private sector entrepreneurs would see a piece of legislation in a world that they can break into that disallows any negotiation of hours of work, talks about the ability of the employer to pay and a number of other areas? What do you think that message is that this government is sending to the private sector?

**Mr Wilson:** Whatever bargaining would exist would be certainly one-sided, there's not much doubt of that. What it really does is say to private sector employers, "We've created an environment for you where you can maximize your profitability at the expense," I would believe, "of those people who work within your collective agreement or within your company," but more important, I think, also at the expense of those people who are out there who run some risks if there's a fire.

When we looked at some of the stuff in the States, you saw the same kind of decisions in the operation of the firefighting business as you did in the operation of the cement truck business or the waste disposal business. People would skimp on maintenance and therefore you would have a reaction. Trucks would break down on the way to a fire; that just doesn't happen in Ontario. God forbid. If it does, it's not because somebody hadn't spent a lot of hours on maintenance trying to make sure it was avoided. I guess there are occasions when we will have unfortunate situations, but they would be driven by acts of God rather than driven by acts of profit, and that's the difference.

The purpose of business is to make money. Public policy says there are some areas where making profits should not be the criteria or the focus, that providing a safe service should be the focus. That's what firefighting is all about, and I dare say that's what policing is all about.

**The Chair:** Mr Wilson, thank you very much for your attendance here today.

#### TERRY ALLEN

**The Chair:** Fire Chief Terry Allen. Fire Chief Allen is the fire chief of what I consider the finest fire department in Ontario. Welcome, Mr Allen.

**Mr Bisson:** Mr Chair, I take exception to that.

**The Chair:** A little editorial comment.

**Mr Terry Allen:** Thank you, Mr Chair. Thank you for the opportunity to comment on this important piece of legislation dealing with the safety of all the citizens in Ontario. There is no doubt that there is a very real need for change in how fire protection is delivered and managed in our communities, and this act provides both the impetus to move ahead into the next era of fire protection and the structure to do so. The increased emphasis being placed on prevention and public education in this act is the step needed to move communities and fire departments ahead in this very positive direction.

I would like to take this opportunity to comment on the important parts of this legislation that will affect all the parties that have an interest in the delivery of fire protection. I would like to indicate to the committee that the opinions expressed by me today are my own as a citizen of the province of Ontario and as a person with a family who will continue to live in the province long after the passage of Bill 84. I will continue to feel safe from the dangers of fire after the passage of Bill 84. My comments are based on my experiences as a practitioner in public fire safety for 23 years.

For the committee's information my background is as follows: fire chief, the city of Cambridge for five years; deputy fire chief, city of Cambridge for four years; fire captain and acting platoon chief for five years; and a firefighter for eight years.

I'm the management co-chair of the Ministry of Labour section 21 committee; director on the fire services section of the National Fire Protection Association; member of the technical committee on fire department organization and deployment for the National Fire Protection Association; first vice-president of the Ontario

Association of Fire Chiefs. I was fire coordinator for the regional municipality of Waterloo for two years.

I have a bachelor of arts degree from the University of Waterloo, a masters of public administration from the University of Western Ontario, and I'm a graduate of the Ontario Fire College.

I present that just to explain to the committee that I'm bringing a rather broad scope of background to my concerns that I'm going to bring forward today. It is from this background that I would like to address the big picture that is encompassed within Bill 84.

Many of the comments and criticisms that are being brought forward to these hearings are narrowly focused on specific portions, without recognition of how those specifics fit into the act in its entirety. By isolating specific portions and then extrapolating extreme possibilities from those musings, it is easy to suggest that the bill is flawed beyond repair. A calm reflection on the realities of the act will discover some areas that need minor modification or clarification. This can be easily accomplished, and I have confidence that this committee will recognize those concerns and make appropriate changes.

Opponents to Bill 84 have developed a well-orchestrated and manipulative campaign. The orchestration should be readily apparent to this committee from the fact that many presenters are reading from the same script. The campaign is manipulative in that it attempts to comment on portions of the act without reference to the checks and balances found in other parts of the act. This has misled many of the public to believe that Bill 84 introduces new risks to their safety that were not possible under the existing legislation. Any recommendations coming from this committee should be based on clear and valid reasons for the need for the change.

Bill 84 brings with it significant change in how we view fire protection and how fire departments will operate. More specifically, it brings many more possibilities in how local municipalities can go about providing fire protection based on their specific needs and situations. Of course, along with these new possibilities come anxiety and concern about how those new ways of doing business will impact on fire safety and those that are involved in providing these services. By now the committee will have heard many concerns from specific players in the fire service community. Some of the examples put forth have gone to the extreme in their portrayal of the disastrous impacts resulting from the passage of this act.

The level and quality of fire protection has always been a responsibility of the local councils and continues to be under Bill 84. Fire protection has been well managed and adequately provided for by the municipalities for many years. I am comfortable that this commitment to safety in their communities will continue to be a priority with the local councils. In the rare circumstances in which a community may allow its fire protection to fall below acceptable standards, the province, through the fire marshal, can intercede and is empowered in the new legislation to deal with these situations through specific regulations.

I have had the opportunity to sit through some of the other public hearing sessions on this act and have heard countless examples of situations in which the fast



response and quick action of the local fire departments has meant the saving of life and reduction in injuries and property damage. These portrayals seem to imply that emergency response is a gift from the heavens that automatically manifests itself as necessary. The reality is that well-trained firefighters arrive on the scene promptly because the local government administration, the local fire chief and the local council have made it a priority within their communities to provide the necessary people, equipment and facilities to accomplish all that needs to be done to resolve an emergency quickly and effectively.

Having said this, I am not implying that our firefighters, full-time, part-time and volunteer, do not play perhaps the most important role in all of this. They are the ones who enter into situations that most people do not even want to think about. The dedication and care with which the firefighters in my own department manage each emergency situation they encounter never ceases to amaze me. I am certain and confident that this same dedication and quality of service will continue after the provisions of Bill 84 come into being. I am equally confident there is nothing in Bill 84 that will increase risks or danger to the public.

I would like to comment on some specifics within the act that seem to have received the most attention in all of this discussion.

**Part-time employees:** The flexibility to use part-time employees has been criticized using the premise that part-time means less qualified and less well trained. The act provides for certification and training standards for firefighters regardless of employment arrangements. Currently there are no required or mandatory standards for part-time or full-time firefighters and there is a wide range of quality in training and standards of performance among departments.

The use of part-time employees for fire suppression and rescue activities would have to be organized at the local level with a very clear understanding of all of the ramifications and the impact on the local department to deliver the level of service that is expected within that community. Standardized training requirements and the application of other relevant legislation, such as the Occupational Health and Safety Act, are just a few of the implications that would have to be considered.

The use of part-time employees in many other areas of the fire service may enable departments to provide services which they otherwise might not be able to afford, and so the opportunity to employ part-time people provides the necessary flexibility in those instances. It is critical that the term "part-time employee" be defined as soon as possible to avoid widespread disagreement on the applications of part-time positions within the fire service. I would urge the committee to certainly look at that.

**1330**

**Privatization:** Privatization of the fire service is unlikely to occur to any great degree in Ontario. The requirement that all employers providing fire protection adhere to the provisions contained in the act levels the playing field between private enterprise and the public sector. All employers would be subject to the restrictions on hours of work, the roles of conciliation and arbitration and the scrutiny of the office of the fire marshal.

Privatization of the fire and ambulance services in the United States has been held up as an example of what could happen in Ontario. Evidence presented at a previous session suggested that less than 1% of the fire protection in the United States is provided by private firms. This being the case, it seems an unlikely threat to the fire service in Ontario.

Privatization of components of the fire protection system may be useful in communities that do not have the local expertise or resources to provide these services. Activities such as public education, information services, training or mechanical maintenance are some examples. Again, these decisions would have to be made at the local level after a thorough analysis of all the implications.

I believe public fire departments can do an equal and probably better job than private enterprise, given a level playing field and the flexibility and direction provided in Bill 84.

**Part IX, exclusions from the bargaining unit:** The number of automatic exclusions in section 58(5) should be doubled. For example, employers with between 25 and 150 employees should automatically be given the opportunity to exclude six persons, not the three provided for in the proposed legislation. The reason is very simple: It will avoid numerous trips to the Labour Relations Board. Many departments will be looking to take more positions out of the bargaining unit than are provided for. Doubling the proposed number of automatic exclusions will reduce these disputes and really not impact significantly on the bargaining units.

Do not be misled that the new exclusion formula will create another level of middle managers made up of new employees. The exclusions have been portrayed by opponents of the act as a means of introducing an additional, separate layer of middle management into the fire service. The provisions for exclusion allow a municipality to create a management structure for its fire department that will allow it to move ahead in the directions intended within this new legislation. Persons now within the bargaining unit who are performing management functions but cannot be excluded from the bargaining unit under the current Fire Departments Act could be excluded as local conditions may warrant under Bill 84.

Fire departments have changed not only in size but in many other ways since 1949. Many services are provided requiring a wider diversity of skills and training. The demographics of fire departments have changed. Managers require a broader range of skills and talents to manage this changing workforce. Many current collective agreements have specific details governing who should be promoted into senior management positions. Changing the way we do business, which is the purpose of Bill 84, will enable managers who are put into senior positions based on qualifications, not seniority, as is now so often the case, to perform their duties without conflict between their obligations to their employer and their loyalties to the bargaining unit.

Let me also point out that the exclusions are permissive in nature, not mandatory. If things are working well for both parties in a local municipality, it may not be necessary to change anything. Additionally, it would be important to have a mechanism in place that will allow

officers in positions the employer chooses to exclude to move into a position that remains within the bargaining unit if they so choose. I suggest adding a twilight clause, if you want to call it that, expiring on July 31, 1999, that would allow employees whose positions are designated as management to move back into a position still in the bargaining unit at the time their designation is announced.

**Definition of a fire chief:** The definition contained within Bill 84 provides the recognition that the responsibilities of the fire chief in matters of fire safety are directly linked to the body that establishes the public policy on these matters and should remain as provided for in the act. It is also important to include a provision that requires the municipality to appoint a specific person to act in the fire chief's absence to ensure there is no interruption in the requirements of the fire chief in performing municipal and provincially mandated duties.

**Certification of the bargaining agent:** I have represented association positions on many issues while a member of the Cambridge Professional Fire Fighters Association. The labour relations environment in Ontario's fire service is unique. It is not understood well by those who have not operated in it. Fire department managers and the associations can argue for days over issues over the chief's desk and over the negotiation table about all types of issues. However, the common concern for the public's safety is never lost. If a bargaining agent who did not share that same concern entered the picture, it could easily impact the cooperative nature of the relationship that currently works in the best interests of the public.

I would be more comfortable if the legislation was constructed in such a way that it required firefighters to represent firefighters in the labour relations side of the fire service.

In summary, by now the committee will have come to recognize and understand the diversity of the fire service across this province. Subsequently, they should also recognize that Bill 84 is well designed. It provides the legislative framework for each community in Ontario to meet its own individual needs while maintaining the province's common interest in fire protection.

I could go on to analyse the specifics of the act, but time does not permit this. Let me sum it up this way. I have heard many presentations by people concerned with the impact of Bill 84 on the safety of their loved ones. I also have a family: my wife, our three daughters, two dogs and a cat. If I thought any part of this act would endanger their lives now or in the future, I would be sending you a very different message. I am not worried. In fact, I feel an obligation to support the many positive aspects of this bill as a step towards enhancing the future safety of my family. I ask this committee to quickly bring their recommendations for any changes through the final steps to enact Bill 84 in order for all of us to move on and focus once more on providing the best level of fire protection possible to our communities.

Before concluding, I would like to digress from my written statement and answer some of the questions I anticipate arising out of my presentation.

Why are some fire chiefs not supporting Bill 84? Each chief has their own background that they bring to their

interpretation of the act, and the committee should consider this.

Is the government giving municipalities a loaded gun? I guess you could say so. But they're also telling them what range they must shoot in, what score they must get in order to keep on shooting and what standards of behaviour are required.

Why are the firefighters so opposed to Bill 84 compared to the fire chiefs, who seem to be supporting it in general? Why the split? If you look at the surveys regarding things that employees consider important in the workplace, you will find control over their environment is usually in the top two or three issues. There is a perception that provisions in this bill such as the exclusions, part-time and the certification process do take control away from the associations, and that is a part of it. I think the associations have certainly had their opportunity and made some strong arguments that this committee should consider on some of those issues.

Why hasn't there been adequate consultation? The committee has heard that there has been an ongoing discussion since, I believe, 1978, and I think I heard back as far as 1972, on revising some of the legislation of the province, and it has been reviewed in depth with all of the players since 1988. Many of the outcomes from these discussions are incorporated into Bill 84. This is also a consultative process, and hopefully the committee will identify and implement the required amendments. Thank you for the opportunity to present my concerns.

**The Chair:** Thank you very much, Fire Chief Allen. Our time has elapsed, so I thank you on behalf of the committee.

**Mr Kormos:** On a point of order, Chair: With respect to the allegation that opponents to Bill 84 are reading from the same script, I wonder if the Chair would have the clerk canvass the submissions to find even two from opponents to Bill 84 that are from the same script.

**The Chair:** That's not a point of order, Mr Kormos, as you know.

1340

RICK FLETCHER

PAUL GORDON

**The Chair:** Our next presenter is Mr Paul Gordon. You're Paul Gordon?

**Mr Rick Fletcher:** My name is Rick Fletcher. I've been a firefighter in the city of Hamilton for approximately 28 years. I'll introduce Mr Paul Gordon. He's the retired vice-principal of Sir Winston Churchill Secondary School. He's been in the education system for 35 years.

**The Chair:** Mr Gordon, the floor is yours.

**Mr Paul Gordon:** Thank you very much. As I've been introduced, I retired as of February 29, and therefore my appearance isn't quite as appropriate as it probably should be. I want to declare up front that I do not have any political or personal ties to the firefighters organization. I have the utmost respect for the job they do in general but more specifically for what they did for me when I was the administrator of a very large school here in Hamilton.



I agreed to appear today with the full understanding that I am not aware of the entire fiscal picture that makes this hearing necessary, but I am aware of the possible fallout of reducing numbers of our emergency teams in any area that could impinge upon the safety of the kids. I fear for the results of those actions.

The case I'm going to present to you occurred December 4, 1996. It made the papers; I'm sure many of you read about it. We had an unknown substance. It was odourless, colourless, tasteless, but it sure did a magic job of affecting people and how they got fresh air. They gasped, they coughed etc. We were having a meeting at noonhour, and my head secretary called me and said I was required on the third floor in a geography room. The man they gave me, I knew it could not have been a discipline problem, because he was 280 pounds and a former Tiger Cat.

When I got up there, I found this gentleman coughing and hacking like there's no tomorrow, along with about 12 or 13 students in the hallway. We took them all down — I was with my guidance head at the time — directly outside to get fresh air, because we weren't sure what was causing it. When I got them outside, I went back in to report it, and by that time the second and first floors had besieged the office with calls. I had my caretaking team out, we had any available teacher out and we dismissed, as per normal regulations of a fire drill. We contacted 911.

In my note, I said it was less than five minutes. I did not get the exact time. I meant to call to find out from them the time the call went in and when they arrived, but it was in less than five minutes. Two groups of firefighters arrived. I'll tell you, it was with a great sigh of relief that I saw them come, because I wasn't too sure: (a) I didn't know what was causing it; and (b) I didn't know how seriously ill the two staff and two young students were. They were collapsing and gasping for air on an ongoing basis.

Excuse me. I was at the dentist prior to arriving here, and I think the freezing is now coming out, so if I stumble —

*Interjection.*

**Mr Guzzo:** I'll gladly change places with you.

**Mr Gordon:** Root canal? Go ahead. I'll also see that you get the bill, sir.

**Mr Guzzo:** Thank you. You're getting the bill for this.

**Mr Gordon:** There's a comment that I dare not make publicly in case anyone is listening.

When we got everybody downstairs, as I said, the firemen arrived, and they broke up very efficiently into two groups. Three of the gentlemen went into the school with the appropriate gear, whatever that is, to try to see if they could determine the cause. The other group attended to the most severely affected students with various paraphernalia to make sure they got their air. Just as they finished taking over, we had the emergency paramedic group come in. We had a series of people; I believe at one time we had 12 working at it. We still don't know what caused it, but it could have ended up in a real mess on us.

These professionals were so well trained that they had all of my very sick people into ambulances, off to various

hospitals, they made all those arrangements, they calmed the rest of the people down very well. I think the most severely affected people, the two staff and two youngsters who had asthma, were away from the building under proper medical care within 12 minutes of the phone call and the beginning of the incident. When I checked at the hospital, nobody had to stay overnight. I think the last person got out at 6:30 that night, and this was at about 12:35. The doctors told us it was basically because of the immediacy with which everything was reacted to.

I'm not a medical practitioner, so I don't know. All I know is that I was responsible for 900 people in that building on that particular day and my concern was getting the best care as quickly as possible by people who knew what the heck they were doing; I didn't.

When we finally got everybody down, the fire department and the Ministry of Health and another group that monitored it came in and said it was now free and we could go back into the school. It was at that point a young captain — his name escapes me, and I left my notes at the school and my successor wasn't available; it's in a locked file — said, "I think we should take them back into the building now, and I and my men, along with the paramedics, will go on a class-by-class search, because there is the possibility of a delayed reaction by anybody who may have asthma." The result of all that extra work went from four to 37 people hospitalized inside of about 25 minutes.

In the meantime, we had the Ministry of Environment and the Ministry of Health going through the school. We had people down checking the boilers, all the air vents etc. They found nothing. The police were involved. We interviewed God knows how many people.

What we did find out, going through some rumours — and that's all they were — is that if you look on the Internet, you can find a thing called the Anarchist's Cookbook. You can make just about anything you want from that cookbook. One of the things a group of staff and myself found out is that by using various household articles, you can package this stuff and put it into water. It has a delayed reaction and has a suffocating sort of feeling in your throat. All the areas contaminated in that school were outside the girls' washrooms on all three floors. The other sections of the school were free. I have no proof of that statement; I'm just saying this is what our investigation turned up.

Why was I impressed by the numbers that arrived that day? When they arrived, they were so skilled, the first person they hit was the principal. They came in, asked me what the details were and I gave them what I knew, sketchy as they were. The young captain broke things down — bang, bang — he had some into the school and some looking after the sick, and then made sure that when the paramedics arrived they worked as a unified team. As I said, the medical practitioners at the hospital told us it was because of the immediacy of the feeling.

There are two issues, from my point of view, strictly as a concerned citizen. Morally, we must make every effort to provide the safest atmosphere in which students learn. In Hamilton, we've had a great push on for safe schools. That includes trespassers to the school, that includes any emergency that may happen, someone

turning on the gas, you name it. We are entirely responsible. The Education Act, as a matter of fact, makes me the surrogate parent. If any of you have children — being a surrogate parent to 900 teenagers is a challenge at the best of times. You don't need emergencies to add to it. When we need support, we need it quickly and we need it from people who know what they're doing.

Legally, we must be able to say that every effort was made to provide the best possible care in the shortest possible time. I often wonder which is more costly: keeping the people on the job or facing the lawsuits afterwards. Because of the very fact that we sent people to the hospital in an ambulance, I had to answer to about eight irate parents who said I didn't have their permission to do that and demanded that we pay for it.

Everything has been taken care of. The Hamilton board did the right thing at the right time. I'd like to think I did the right thing at the right time, from an educational point of view. But I want to tell you right now, without the professionalism and the commonsense approach and the outstanding training of all the emergency squads, particularly the firefighters, I don't think we would have had the success we had.

In closing, I feel that the better the protection we provide in any of our emergency teams, the better our community will be. When I look for a place to move to, the first thing I do is go to the police department and the fire department and, necessarily, the ambulances or hospital to find out how far away everything is. I must be doing something right, because I understand the insurance companies do the same thing. That's how they determine your end results. That's all I have to say.

1350

**The Chair:** Thank you very much, Mr Gordon. We have only a minute per caucus.

**Mr Bisson:** Let me get to the point: The previous presenter and a few others have said that firefighters and those presenting against Bill 84 are basically fearmongering, that it's all politics of self-interest, as they term it. Having lived the experience where you had a potentially very dangerous situation that could have resulted in serious injury or even death, depending on what the stuff was in your school, imagine that you had had a fire department that consisted of maybe one or two full-time guys or women on shift, the rest being part-time, call-ins or temporaries. Do you think they would have arrived as quickly as this particular fire department did?

**Mr Gordon:** I have had no experience with volunteers or anything else. All I can say is that the group in Hamilton — that's the only one I can speak to with knowledge — arrived extremely quickly, did their job extremely efficiently and effectively, and because of that, I think a potential disaster was prevented.

**Mr Klees:** Thank you for your presentation. We're with you in terms of recognizing the importance of firefighters in this province and the important work they deliver. Have you read the section in the bill that relates to enhancement of safety in the province?

**Mr Gordon:** I've read the articles that the firemen provided to me, but I can't say I'm terribly informed.

**Mr Klees:** So you haven't read the legislation.

**Mr Gordon:** No, I haven't.

**Mr Klees:** Your reference to teamwork is very important. I think what we have to realize is that the team is much broader than strictly the firefighters. We heard from the fire marshal previously that the team really includes the fire marshal, includes the municipality, because without the municipality there would be no firefighters, and includes the province. What we're trying to do in this committee is to address this piece of legislation to ensure that that broader team, which includes all of us, can work together to deliver the best possible service to the people in Ontario.

Your presentation is very helpful. I can assure you that this government will do what it needs to do to ensure that that level of safety continues to be delivered and is in fact enhanced.

**Mr Ramsay:** With those words, I'm wondering why we're going to fiddle with a system that works so well. We've had story after story — you presented another one today — of teamwork in our emergency services that seems to be very effective and very efficient. It was very interesting that the Phoenix fire chief, who spoke before you today, said that while people are pretty cranky about government and bureaucracy and how cumbersome it sometimes is, the one type of service that comes from government that people are very happy with is the service you called upon that day when you had a problem in your school. As he pointed out, they ask two questions — where are you and what's the problem — and they're out the door.

That's probably how all service should work, whether it's the private sector dealing with products or with government services. That's efficiency. I don't know why we're fooling with that, because that's the type of service we have to preserve for the safety of not only our families, but when you're in charge of 900 teenagers in a school, you really rely on that service too. You pointed that out to us today, and I wanted to thank you very much for coming.

**The Chair:** Mr Gordon, thank you for giving us a very practical example of our fire services in operation.

AUBREY FOLEY

**The Chair:** Aubrey Foley is our next presentation. Welcome, Mr Foley.

**Mr Aubrey Foley:** Good afternoon. Are we ready for that after-dinner stretch yet or are we okay?

**The Chair:** We're okay yet.

**Mr Foley:** Very quickly — you're not here to hear about Aubrey Foley — first of all, I am not a firefighter, nor have I ever been involved in any kind of volunteer firefighting service other than the backyard barbecue occasionally. I'm very involved with several of the organizations in Port Colborne, currently as president of the Port Colborne and District Boy Scouts. I do have a pretty good pulse on what it's like to be a volunteer and what it's like to have full-time paid staff to complement the services our scouting program offers not only Ontario but all of Canada and the world.

I want to thank you for giving me the opportunity to speak at your committee hearing here today. More important, I want to thank everyone — I apologize for



having my back to the crowd, but it's very enlightening to have such a group of very professional and extremely concerned people behind me today, from all professions, and I thank them for allowing me, as a non-firefighter, to be here.

I'm not opposed to all the aspects of Bill 84. For example, the mandatory fire education and fire prevention are some of the most positive aspects of this bill, and I strongly support that. However, I do have a concern about the funding under that part of the bill for the mandatory fire prevention and fire education, where the dollars will come from. That's my number one concern there: Where will these dollars be used?

I will say, fresh as of yesterday, helping with Elections Canada doing a little bit of enumeration cleanup and having the opportunity to visit quite a few multi-dwelling complexes in our area, I can see where we really need education and training. We've got a problem out there.

As a resident of rural Port Colborne, I feel we have a very high quality of fire service, and I'm going to support this statement. I've witnessed a fire emergency response in a house fire directly next door to me. The fire department had a turnaround response time, which is incredible, of exactly six minutes from the placing of the call to their response in the driveway, and we're exactly three kilometres from the nearest firehall in rural Port Colborne.

Not long after that same time, there was another emergency situation. I live on a main artery highway that arrives from Buffalo, New York, into Port Colborne. There was a serious highway accident, and the first responding emergency people were the fire department, followed by our ambulance service. In this case, they had the victim in a recovery position and waiting to be delivered to the nearest hospital. I really commend the services we have from our fire department in that area.

Unfortunately, this excellent service is now in jeopardy under Bill 84 and downsizing, which seems to be today's trend. No different from my businesses, I always watch the bottom line very closely — I've been involved in my own personal businesses for several years — but frequently, there's one thing I've had to do: I've had to increase investment and increase services, which allowed my business to succeed while other businesses failed.

The key to my success arrived from full-time professional employees. In my business, the customer did not come first; my employees came first. I treated them with the utmost respect at all times, in training and in compensation, and they in turn relayed the message of happiness to my customers, which brought more customers into my business. That was my success, and still is.

As a licensed, accredited safety officer involved in health and safety issues for the past 30 years, I feel most confident about my assessment of Bill 84 and its contents. No different from any other public service — police, ambulance or fire — we must ensure that a full needs analysis has been completed before we arrive at any recommendations or any action plan for change.

I strongly feel that this has not been considered when Bill 84 involves the unusual geographics of Port Colborne, that being a large rural area, a community divided by the Welland Canal and a population increase of over 50,000 people during our seasonal tourism along

the Lake Erie shoreline. I'd like to get that into a better perspective.

We are located on the edge of Lake Erie. We're the only city in southern Ontario where the Welland ship canal dissects directly through the centre of our city. Our tonnage is increasing every year. Our professional firefighters have prevented the demise of two of our largest lake carriers in the past 12 years. We've had two major fires with no loss of life and we have saved both vessels. These vessels are worth normally in the neighbourhood of \$350 million to \$400 million each. Those are the toughest fires in the world to fight because you're going into a confined entry, multiple levels. Any condition a firefighter could be faced with, they were faced with, and our people here have done that twice. We hope there's no more.

#### 1400

The three key elements in firefighting are speed, experience and teamwork, which equals saving lives. We already have this in my community and I want to keep it.

Also, with this Welland ship canal, the shores of Lake Erie, fortunately enough for us we have developed and introduced a large marina and we have a huge resort area called Sherkston Shores. The population of Sherkston Shores in May will increase by 20,000 and stay with us all the way through September and up to Thanksgiving weekend. Geographically, as we head west from there towards Long Beach and the other resort areas, this is where the numbers will get up to the 50,000 mark.

This puts an extra burden on our professional firefighting services, not only for fires and other types of emergencies, but we also deal with water safety in this area. This is a little plug for Port Colborne: Come on down and visit us. We have some of the nicest sandy beaches, miles of shoreline, safe swimming, a beautiful area.

I understand that the proposed changes in Bill 84 will allow for privatization of the fire service, and we've heard this several times today. I'm not against privatization, but the idea has been around in the United States and other areas for many years, and there's nothing I can see or that proves to me that it has increased service or reduced costs. The last thing I want to see, as a Canadian citizen and as a taxpayer, is any more of our existing services taken over by American companies. I'm a Canadian citizen, I pay Canadian taxes, I love Canada, and I want to do everything I possibly can to enhance this country and our future. Let's keep it there.

Please ask yourselves and each other this question: Can we go to sleep each night and feel absolutely confident that we have done our best to ensure that our health and safety are going to be taken care of in a very professional manner in the event that an emergency may arise? If we can't answer yes to that question, all of us in this room today, we have to turn our thinking around a little bit and do whatever we have to do to get the yes answer. At this time I can honestly say, from the feeling in the hallways and just talking to people in general, we haven't got a yes yet.

Bill 84 isn't wrong and we're not saying it's right, but this is like a marriage. Communications, folks, will be the secret to winning this. No one's right and no one's wrong, but somewhere we need to stop, pull the political

tide to one side and say: "What can we do as genuinely concerned citizens? Let's work this thing out, let's make this plan work and let's get on with life. We have more important things to do."

I thank you. I appreciate your time. I've made this short so I can take some questions.

**The Chair:** We only have one minute per caucus.

**Mrs Ross:** Mr Foley, thank you very much; a very good presentation. I'd like to ask you just one question. You made the comment that speed, experience and teamwork are the keys to good fire protection and fire safety, and that in Port Colborne you already have this and you want to keep it. I couldn't agree with you more. I come from Hamilton and I think we have the best fire department here and the best teamwork.

I want to ask you specifically. You talked about what you liked about Bill 84, but you didn't tell me what was in there that you were concerned about.

**Mr Foley:** The way I read the bill as a citizen — not as a lawyer, not as a professional firefighter — is that I see room in there for the municipal level of government in our home town, through budget cuts, to possibly start reducing our number of paid professionals and substitute for them, we'll say, volunteer or part-time people. We work very closely with our volunteers, and I put volunteers and professionals on an equal playing field, but I know that in any organization where you have volunteers and you have paid professional staff, it takes both to make that team work. If we reduce the top end, we will lose on the bottom end.

**Mr Ramsay:** Thank you for your presentation. I really enjoyed that. In Port Colborne, who runs the ambulance service?

**Mr Foley:** It is turning into a private company, and I believe that transaction is completed. I don't want to quote the name. I'm not too sure.

**Mr Kormos:** Rural/Metro.

**Mr Foley:** Rural/Metro? It has gone private. I'm not familiar with how it works or what goes on, but I can tell you this much: When our firefighters are arriving at the scene of accidents in my area, in my community, they're doing a great job.

**Mr Ramsay:** I agree with you. From what I know about that particular company, I was rather alarmed when I heard a few months back that they had purchased six different ambulance services in Ontario, your town being one. To me, that's a foot in the door to the privatization of emergency services, because what they'd like to do is use the ambulance service to subsidize the fire service.

**Mr Foley:** Correct.

**Mr Ramsay:** That's been the experience they have in the States. I just would point out to the government members that they're here now. I know one of our colleagues down the table said they're waiting at the Peace Bridge. Well, they've already crossed the Peace Bridge and they're here now. They're just waiting for this bill to pass. So if you're not sure you like the ambulance service run by them, wait till they start running the fire service. I think there's a lot to be concerned about here. I'm glad you made your presentation today.

**Mr Foley:** Thank you. That's why I'm here.

**Mr Bisson:** Thank you very much for your presentation. I particularly enjoyed your analogy with regard to running a business. I was a small business owner myself; I had my own business for six years. One of the things I recognize is that when I was in business like you, I was better able to serve my customers and make more money for myself as a business owner when I had full-time people there to service my clients.

One of the difficulties often, especially in the small business sector, is that there's such fierce competition on the part of the larger corporations moving in and taking up a lot of the market that a lot of small business owners are forced, because of economics, to downsize towards part-time employees, thus sort of spiralling downwards the whole problem of being able to service your customers to keep them happy so they'll come back to your store. That's something that I appreciate you were able to bring to the committee.

I hope that if the Tories understand anything, they would understand the business argument, that the whole question of fire services has to be looked at in the light that first of all it's a service, it's not a business; and second, if you want to do it well, you've got to pay for it. It's as simple as that.

**The Chair:** Thank you, Mr Foley, for your presentation here today. It's much appreciated by the committee.

ART WHITE

TED McMEEKIN

**The Chair:** Our next presentation is twofold: Mr Art White and His Worship Ted McMeekin, mayor of the town of Flamborough.

**Mr Art White:** Thank you very much, gentlemen and ladies. My name is Art White. I'm from Cambridge. As you already know, I'm sharing my time with Ted McMeekin, who is the mayor of Flamborough. I'm here representing myself as a concerned citizen and for no other reason. I did think you'd like to hear my story in a few moments about why, basically, I'm concerned.

First of all, the response time of professional help, which will probably be seriously cut back if this bill passes as it is, will be very detrimental to many people. The threat of understaffing, with inadequately qualified personnel, is a very big concern, as far as I'm concerned.

I don't know anything about the bill other than what little bit I've read. I was asked to come here today basically to tell you what happened to me. It's a miracle I'm here to tell you about it, and I'll tell you why.

At around 7:30 pm on May 21, 1996, I had just finished cutting one portion of my mother-in-law's lawn and suddenly my heart quit, just like that. I didn't have a heart attack. It stopped. Fortunately for me, there were neighbours nearby who immediately went to another neighbour who they thought might know CPR because he was a member of the militia. He did know CPR and he came rushing over. Someone else called 911, and this gentleman started CPR and artificial respiration on me. For all intents and purposes, I was gone. However, the fire department arrived, I'm told, within four minutes of the 911 call. They gave me defibrillation, I think once or twice. Anyway, I'm told my heart did start again, appar-



ently, and they kept it going. They had to do it again before the ambulance came. In the ambulance on the way to the hospital I understand it was performed twice more before my heart finally decided to cooperate.

I feel without this special equipment and professional help, naturally I wouldn't be here, and a lot of other people probably would be in the same situation or have been and will be again. This made the headlines all over the area. Perhaps a few of you people may have seen some of them. I can't thank them enough, naturally. They saved my life. They brought me back to life. If they hadn't been able to respond, if they'd had to wait for someone else who may be on shift work or somewhere to come in and help them do the job, naturally the time element would have been so far out of proportion, I wouldn't have had a chance.

1410

I don't want to take much time, but Bill 84 in its present form certainly will jeopardize lives because of the suggested cutbacks in manpower and the degree of professionalism in the fire department that will not be there.

I haven't spoken in front of people for a long time, forgive me. Thank you very much for the opportunity to tell you my little story. I certainly hope you'll think very seriously before you make any drastic changes.

**Mr Ted McMeekin:** My story is nowhere near as dramatic as Mr White's, but I'm pleased to have the opportunity to be here. Just a bit by way of background, I'm not a professional firefighter, but I'm certainly much more than a passive observer. As a young man in my twenties I had the good fortune to serve two terms on Hamilton city council, and throughout those four years served on the legislation and fire committee, and miraculously, 17 or 18 years later am having the privilege of serving as the mayor of Flamborough.

I have carriage for a very different kind of fire service. We're one of the largest towns in Ontario, with 191 square miles. We have five stations there and some 125, we prefer to call them part-time professionals rather than volunteers. They're very highly trained part-time professionals too, for what it's worth. We also provide some service to the adjoining town of Ancaster, a portion there. They think so highly of our service that we have a contract with Ancaster to provide some of that service.

I'm particularly pleased with certain aspects of the bill before us, particularly the consolidation, away from the ad hoc hodgepodge series of bills. I don't always feel as positive about consolidation, but you don't, I suspect, want to hear about that today.

**Mr Bisson:** Is it on again or off again, or is it off again, on again?

**Mr McMeekin:** It was going to be off to the year 2000 or next week, whichever comes first.

**Mr Bisson:** Flip-flopping again.

**Mr McMeekin:** Yes. I'm not sure where it's at, but in the fullness of time we'll get there.

I'm also very pleased with the aspect that relates to mandatory public fire safety programs and fire prevention. We've recognized for a long time that this is really the key: An ounce of prevention is certainly worth a pound of you know what.

We're in a situation where we're going through a bit of a transition in Flamborough. In fact, far from moving more into volunteers, we may be looking at what somebody called the composite service. As our urban core develops, we're looking seriously at the composite of full-timers and part-timers, with training and good equipment being the key. We feel if we can give our part-time professionals nothing else, we can certainly provide that.

I am also a small businessman who has two full-timers and six part-timers and we're doing quite well, thank you very much. As a husband and father, in addition to being mayor, I want to make comments about the one part of the bill that does concern me. I don't want to repeat things that have been said, but I think there is a pattern I've seen emerging since early this morning when I first arrived.

I am concerned that we ensure through legislation that fire and emergency responses don't go from being a service to a profit-making activity. There's nothing wrong with making a profit if you're in business specifically to do that, and we're talking service versus value, I suppose, here. I don't think we could put a price, but rather need to attach a value to human safety. I spoke to our chief and our firefighters and members of our community, and there's a very strong sense that safety of the public is frankly not for sale at any price.

Having a well-equipped and trained emergency and fire team is not a cost, but it's an investment from our perspective. I want to say as sincerely as I can that if it ever comes to a choice between saving a child's life and putting \$1 in some shareholder's pocket, I know where my constituents and I stand.

We have a cadre of some of the finest people in the world. Some of them are full-time firefighters, by the way. I know that rubs some of the union guys the wrong way, but if you're going to make a contribution in the community and it's their community, the community they know and love, many of them make themselves available. They do it out of a pride in community and a willingness to be engaged in its service. We celebrate that.

There's a very different reality in a rural or semi-rural situation than an urban situation where often the consequences of a number of things are dramatically different. Our people are very happy with the service we have. We're concerned in a time when things increasingly are being downloaded, and just by way of some absolute figures I can tell you that the recent announcements by the Ontario government would have taken \$188 million off our property tax base and downloaded some \$320 million on to it. Decisions between good and bad are always easy. We all want to be on the side of the angels and we'll choose good. It's those decisions between competing goods that are tough.

My fear, and I have some experience with this as chair of the region's health and social services committee, is that there's going to be increased pressure to look at privatization and ways of doing things that won't always be in the public's best interests. So we're very concerned about value and ensuring that the health and safety of our people come first. In fact, if you were to strip everything away and were to say to people at the municipal scene,

"If you could only have one service out there and nothing else whatever, you put them all on a list, what would it be?" It would be fire and emergency services.

We do that well in our community and we're committed to doing it better. I think the bill contributes significantly to that, but I'm very concerned about the potential pressures on municipal councils and communities and particularly my dread and fear of privatization in a sector as critical as this.

**Mr Ramsay:** I'd like to thank both of you for your presentation. It's always appreciated to hear a personal story and it's also appreciated to hear from the head of a municipality how he perceives the delivery and provision of different services. I'm very pleased to hear you rate emergency and fire services as highly as you do and that you feel it's very important that they be retained as a public service. I agree with you and I hope, through these deliberations and through more deputations such as yours, that we can convince the government members to do likewise.

**Mr Christopherson:** Thank you, Mr White and Mayor McMeekin. I appreciate your presentations. Ted, certainly as a predecessor of yours in the chair of the regional health and social services I share a lot of the perspective you bring here today.

I just want to follow through a little on your concerns about privatization. I agree entirely with the scenario you paint. I think it's realistic. I would hope that here in this community we would be the very last to ever consider such a thing and that we would never elect anybody to our councils who would think this is a good idea. But given the pressures that are coming, I feel less secure about that now than I ever have in my decade in public life.

I think it's important for citizens to hear through your deputation today why you think a privatized fire service gives less value to the citizens you represent than the current public one. You've stated why you think it may happen. You've stated you don't think it's a good thing. Could you just extrapolate a little as to where you think your citizens lose in terms of the value they now have through a public fire service if they move to private?

1420

**Mr McMeekin:** Thanks, David. Your shoes have been awesome to fill, and thanks for the cross-reference there.

I think when it comes to training, when it comes to ensuring that the tools are there, including training tools but also the physical firefighting tools and emergency tools, that they're in good shape, that people know how to operate them, that the kind of personnel, the full crew that's required, is going to show up. I have much more confidence that's going to happen when we have citizens who in our case know and love their community essentially donating their time to do that. There's some honorarium paid, as you know — but then I worry about whether the response is going to be there if somebody is having to count every nickel and dime in a profit-making kind of orientation. I'm a businessman. I know about counting nickels and dimes, and in my business — I sell books — I've got to do that, but this is a hell of a lot more important than books.

**Mr Ron Johnson:** Thank you for your presentation. Is there any provincial legislation that right now would stop you, as mayor or your council, from providing fire services to the people of Flamborough? You could essentially right now close up your budget and say, "No, we're not spending a penny on fire services." Is that right?

**Mr McMeekin:** I would answer that by saying that if you're talking about benchmarks — I think that's another weakness of the bill, by the way. I think you need to look very intently at statutory definitions, although the Ontario marshal has quite a bit of latitude there.

**Mr Ron Johnson:** But right now you don't have to, as a council, provide any fire protection services by law. It's not mandatory. So my question would be, what does this bill give you as mayor, in terms of any extra authority, to control your fire services? They could deteriorate then.

**Mr Bisson:** Fire suppression isn't mandatory.

**Mr McMeekin:** That's right. In fact, I don't think —

**Mr Ron Johnson:** I understand that.

**Mr McMeekin:** I don't think there's any reference in the bill to it specifically, unless I'm very mistaken.

**Mr Ron Johnson:** But you're a mayor and you've been responsible. You're providing fire service and it's not law. You're going to continue to do that whether this bill is passed or not. That's the point I'm trying to make.

**Mr McMeekin:** That's because I'm the day mayor, not the night mayor. The simple reality is —

**Mr Ron Johnson:** You're still going to provide the service.

**Mr McMeekin:** The simple reality is, the expectation in our community is that the service is going to be there.

**Mr Ron Johnson:** But if you don't provide it, you're not going to win another election.

**Mr McMeekin:** No doubt that's true. I would hope that would be true.

**Mr Ron Johnson:** So you're going to continue to provide the service.

**Mr McMeekin:** We're going to do that.

**The Chair:** Just as the conversation and questions become interesting, I must cut it off. Your worship, I thank you very much for attending and —

**Mr Christopherson:** What the hell was your point?

**Mr McMeekin:** I think the question was essentially —

**Mr Guzzo:** Why didn't he answer the question?

**The Chair:** Excuse me. Let's have some order. Mr White, thanks for attending and sharing your time with the town.

#### HAMILTON AND DISTRICT LABOUR COUNCIL

**The Chair:** Wayne Marston, president, Hamilton and District Labour Council. There has been a change from your schedule. There is a written brief you're handing out, sir?

**Mr Wayne Marston:** Yes, it's coming around there now. I have to apologize to the gallery because I'm actually going to pour water in front of them, but it's necessary.

**The Chair:** That's okay.

**Mr Marston:** I think it's tremendous that this many people from our community are here watching this today. It really shows the importance of the issue.



**The Chair:** Please proceed.

**Mr Marston:** Before I start on the actual written brief I want to make one comment. There are no more responsible citizens of this community and others than firefighters. On a day-to-day basis they prove that in their actions and their deeds and their volunteer efforts over and above the work they do. I just wanted to make that personal comment.

I am president of the Hamilton and District Labour Council, which represents over 130 affiliated unions and thousands of workers and their families. I am pleased to have an opportunity to voice our concerns on Bill 84. The impact of the legislation contained in Bill 84 will have a dramatic effect on not only firefighters but all individuals and families in Ontario. The seriousness of this bill must not be underemphasized.

The Hamilton and District Labour Council would like to address the following concerns.

**Privatization:** Amendments to the definition of "employer" leaves the impression to this council that the province is contemplating the privatization of our firefighting services. Services as important as firefighting cannot be trusted to a for-profit company that may be all too willing to put lives at risk to ensure that profit. Municipal politicians, trying to control property tax increases and facing provincial funding cuts to all services, may feel pressure to look to privatization of many services, including firefighting. The Hamilton and District Labour Council believes this is not in the best interests of our community.

**Part-time firefighters:** The Hamilton and District Labour Council is opposed to part-time work, especially in emergency services. The knowledge, experience and availability of a full-time firefighter cannot be duplicated by part-time employment. Most part-time employees seek second part-time jobs and are not always available when emergencies strike. Because of the daily training and the time spent together, full-time firefighters develop into a cohesive team which is irreplaceable in an emergency situation. When I've finished this brief, I'm going to give you two examples of my personal involvement with firefighters that will speak to this. Part-time employees will never be able to develop the same level of skills or fit into the same kind of team.

**Reduced service levels:** Subsections 43(9) and (10) will allow municipalities to reduce the on-duty staff at any fire station utilizing part-time and the calling in from home of off-duty firefighters. We believe this is a serious mistake. It is within the first few minutes of an emergency that the greatest number of firefighters are needed in order to perform a successful rescue or to control a fire. There is no time to wait for someone to be called in from home. We simply cannot risk a delay when the wellbeing of our families is on the line.

**Union security:** The provisions in Bill 84 to exclude the existing unionized positions of firefighting officers from the bargaining unit is nothing more than an attempt to weaken or break the union. Also contained in Bill 84, section 52, is the exclusion of hours of work from the bargaining table. This, coupled with restrictions on pension bargaining, subsections 52(2), (3) and (4), mandatory conciliation, section 53, interest arbitration,

subsection 54(1) and subsection 67(2), and grievance procedure, section 57, are changes to limit the union's basic bargaining rights or to weaken the union's position in dealing with the employer.

It is the Hamilton and District Labour Council's conclusion that the purpose of Bill 84 is to reduce the number of firefighters on duty, which will put the population of our city at greater risk. As well, it will encourage the municipalities to privatize, weaken or break the firefighters' unions.

In its arrogance, the provincial government appears to assume that by mandatory fire prevention and education programs, they will somehow lessen the chances of train derailments involving hazardous materials, building fires and explosions or other emergency situations which cause traumatic injuries and death. These programs do not meet the direct needs of our children, seniors and the infirm for rapid medical response, all of which happen in Hamilton on nearly a daily basis.

Although fire prevention training and education programs do have an important role to play in fire safety, there is simply no better way to protect our communities than to maintain a full-time, fully trained force of professional firefighters.

The Hamilton and District Labour Council calls upon the government of Ontario to rethink this legislation. Our professional firefighters are among the best in the world. Let's keep it that way.

As I mentioned a few minutes ago, I have a couple of personal comments. For me, there's going to be a little bit of a struggle with this because 25 years ago I changed my personal employment. I had been a signal maintainer for Canadian National Railways and part of my job was attending to crossing accidents where people or vehicles had been struck by trains. On the crossings that I took care of, over a period of 11 months we had seven accidents with four fatalities. During that time what I saw was these people who survived trapped in their vehicles and the kind of service and commitment they were given by the firefighters to extricate them from the positions they were in. It was remarkable to watch and it was terrifying to watch, but the reality was that those professional people did a tremendous job, and they did it every day. I felt that was worth talking about.

1430

There's one other thing that I haven't spoken at length with anybody about for roughly 10 years now. On July 15, 1986, just above Highway 6 in Clappison's Corners there were four American tourists who were driving north. There was a truck struck and pushed across in front of them, which they hit.

My son and I were playing golf at a golf course there, and we were the first two people on the scene. The truck that had been struck in the rear and pushed across was on fire with the fellow inside. Fortunately, we were able to get that person out. There was about five people working on the truck. We couldn't open those doors. We were there seconds after it happened and ultimately, by going inside, we were able to get the individual out. But my point is that the firefighting team showed up and 20 seconds after they were there, those doors were open — 20 seconds. That man survived. One of the other things

their arrival did was contain the fire. Now, four people were killed in the other vehicle. It was a very traumatic situation. But the point is, that's how quickly they got those doors open and that's the kind of professional teamwork that we can't afford to play any games with.

I know that the people sitting around this table are not mean-spirited people. They're not people out to try to cause harm towards communities. I would never suggest that of anybody in the government, although I have a few quarrels with you on some issues of the day. I'm saying to you, look into your hearts and consider what you're actually opening the doors to here, and look at what you need to do to protect our communities. I really have to put it in simple terms: Let common sense prevail.

**Mr Christopherson:** Wayne, thank you very much for your presentation. You're always very concise and to the point. For the benefit of my colleagues from all three parties, obviously Wayne wouldn't mention it because that's the type of person he is, but I think you would want to know that for the action Wayne took that day in saving that person's life, he received a medal for bravery. Wayne Marston in his own right is as much a bona fide hero as all of the firefighters and police officers who serve our citizens and we're all very, very proud of Wayne and his courage.

Do I have any time left?

**The Chair:** Thirty seconds.

**Mr Guzzo:** Tell us now he should be the federal MP.

**The Chair:** Excuse me, Mr Christopherson has the floor.

**Mr Christopherson:** To the issues. Wayne, you talk of union security and the fact that firefighters are now precluded from negotiating hours of work and they're limited in how much they can negotiate with regard to their pensions. We've had Gord Wilson in who commented on it, but from a labour perspective here in Hamilton, what are the implications for that in terms of messages that are sent to other employers, both public and private, in our community?

**Mr Marston:** I'm going to digress just a little bit. A couple of speakers ago, you had a business person sitting here who talked about how he treated his employees, and that by giving those employees what they rightly deserved and giving them a sense of protection, those employees responded by being loyal and providing good service that enhanced his business.

In this situation, if you have employees who are told via the bargaining process that they're not valued because various aspects of their rights and their income, their security and their pension are open and under attack, that message is going to spread through the community to others and there's going to be an attitude change, a community attitude change. I think that would be to the detriment to any community involved.

**Mr Christopherson:** Coupled with the attitude of this government towards labour as a whole.

**Mrs Ross:** Thank you very much for your presentation. As usual, you bring a very reasoned approach. However, I want to ask you a couple of questions on your presentation. On page 3 of your presentation you said, "The purpose of Bill 84 is to reduce the number of firefighters on duty." I don't think that's the purpose of

this bill. I think the purpose of this bill is to improve the protection and the safety of the public, so I just want to make that point.

You said also on page 2, "Part-time employees will never be able to develop the same level of skills or fit into the same kind of team." A couple of previous presenters, and I haven't been here for all of them, but a couple of them — one from Port Colborne, I believe — have both full- and part-time complement. Ted McMeekin was here earlier and he calls them part-time professionals. In fact, they're volunteers. Are you telling me those people don't get adequate protection?

**Mr Marston:** I think the thing that happens when you have full-time employees working together on a day-to-day basis is, for example, if you're on a site of a serious situation and you know that the person you're partnered with will respond in a certain fashion because you've spent time with that person, both on duty, at the fire station, off duty, you're going to have a better understanding of the reactions he's going to have, what you can count on, and the limitations that might be there as well.

**Mr Crozier:** A previous presenter made the comment that firefighters should continue to be represented by firefighters, and we didn't have an opportunity, or I didn't, to ask him to further define that. Do you have any comment that would help me understand what he said?

**Mr Marston:** Sure. I think I can give you a very simple one. I used to work at Bell Canada. I worked on the inside in the office and we were about to lose our steward representation because the person simply retired. They were going to bring a steward in from outside to represent us, and even in the context of that, it was still an existing worker, they would not have understood fully the implications of the various things that we chose to do or where we thought our needs were on the inside. I think the same is applicable to firefighters. You have to know the job.

**Mr Crozier:** It just seems logical then. I want to thank you for your presentation. It was concise in those areas which you wanted to address and I appreciate it.

**The Chair:** Thank you very much, sir, for taking the trouble to assist us today.

**Mr Marston:** My pleasure, thank you.

#### HAMILTON PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation will be the Hamilton Professional Fire Fighters Association, Mr Henry Watson, I believe. Welcome, Mr Watson.

**Mr Henry Watson:** Good afternoon. My name is Henry Watson. I'm the president of the Hamilton Professional Fire Fighters Association. First of all, let me thank the committee for this opportunity to speak to you today with our concerns about Bill 84, especially in its current form.

The Hamilton Professional Fire Fighters Association represents 440 professional firefighters, men and women, who proudly serve the citizens of the city of Hamilton. We are urging the government to listen to the men and women on the front lines.



As you have no doubt heard time and time again across this province, from firefighters and concerned citizens alike, speed, experience and teamwork save lives. These three factors are integral components of any fire emergency response. In fact, it could be said that they are the very fabric of the fire service itself. You've heard a lot over the course of these deliberations on emergency response time. What exactly does that mean?

Emergency response time is the time it takes for a fire department to react to a call for help from the public and produce action at the emergency scene, not as it is frequently used, as only the time taken for the fire apparatus to travel to the fire scene.

In my brief I have outlined a breakdown of the total response process. It starts with processing of the alarm, donning of the protective equipment, the travel time and, in the city of Hamilton, the first responding company usually arriving in three to four minutes. The second arriving companies now arrive shortly thereafter, but again this may change, depending upon Bill 84. We believe that the new call-back provisions undermine appropriate staffing levels, and that means slower response times and a greater loss of life and property.

The next phase of the response system is the deployment of equipment and assessing of the situation. That usually takes one or two minutes but could be significantly longer in the case of a high-rise building or a large-area structure.

In order to ensure the emergency is controlled effectively and efficiently, there needs to be an appropriate depth of firefighting resources to back up the first responding company on the scene promptly as part of the initial response. Any analysis of fire suppression deployment must consider the timely availability of sufficient strength to control the fires that may occur, including coverage of the city to handle simultaneous fires or emergencies.

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Fires do not wait. They occur unexpectedly and demand that numerous activities be carried out promptly and simultaneously. A variance of only two to three minutes in the speed with which rescue operations could be completed can increase the victim survivability rate eightfold. Believe me, seconds count and there are no second chances.

Firefighting, in spite of all modern technology, is still very much a labour-intensive occupation. There have been a number of studies conducted all across North America, and the data overwhelmingly supports our position that a properly trained crew, in sufficient numbers, is a vital and pivotal component in effective emergency operations. Any reduction in crew size was clearly detrimental in that it was unable to perform even the basic requirements of tasks assigned to it in a reasonable time, and in some cases, not at all.

As you've already heard, firefighting is a total team effort and each crew has a number of responsibilities upon arrival. The reduction of staff or vehicles results in a decrease of productivity, as smaller crews are less efficient. Smaller crews have been proven to significantly increase the number of firefighter injuries and deaths, the number of citizen injuries and deaths, the amount of

property damage and fire loss. This results in an increased risk to the safety of both the public and the firefighter.

The team concept is vital when we enter dangerous, life-threatening situations. We need to be a cohesive unit, sufficiently trained and experienced, with the resources and staff available, to accomplish our objectives. We do not have the luxury of hindsight. We, as firefighters and our communities' first responders, know full well the value and importance of speed, experience and teamwork.

We are cognizant of the economic pressures being applied on both the province and the municipalities, but it is imperative that appropriate levels of trained, experienced staff be maintained in order to ensure the continued protection of the lives and property of the citizens of our city. The fire department and firefighters have assumed a number of additional responsibilities in response to the needs of our community. This increase imposes a greater demand on the limited static resources in order to respond to these new calls.

I just want to take a brief moment to go through the role of today's firefighter and what their job entails: firefighting; fire prevention; fire investigation; emergency medical assistance — we are our communities' first responder to provide defibrillation, first aid, CPR, ambulance assistance; water rescue; ice rescue; high- and low-angle rescue; hazardous material and chemical spills; life rescue; salvage and overhaul; fire inspection; emergency fuel spills; auto extrication using the jaws of life; dwelling and small business inspections; confined space rescue; and of course our ongoing commitment to the community.

The Hamilton Fire Department responded to nearly 14,000 emergency calls from our citizens last year, and it appears that we are likely to exceed that number this year. As one can clearly see, the professional firefighters of Ontario have significantly increased their productivity and their commitment to providing the best possible service to the citizens of Ontario. Unfortunately, we believe that Bill 84 seriously undermines and jeopardizes the fire service in Ontario.

We are telling you that this bill in its current form won't work. Bill 84, passed unamended, will increase response time, increase risk to the safety of the public and the firefighters, increase the risk to property, increase the risk to life, increase in dollar loss. We want to know why you would want to put this at risk. Firefighting efficiency is based on speed, rapid response, training, experience, appropriate crew size and teamwork. We respectfully request that you listen to the men and women on the front lines every day and amend Bill 84.

At this point I would like to make some general comments on specific areas of Bill 84. The first one I'd like to deal with is bargaining unit exclusions, subsections 41(2) and 58(1) and (2).

We have continually heard that in order to maintain efficiency and manage the fire service, the fire department needs a management team. But Bill 84 goes much farther than that. Not only does it provide a sliding scale of exclusions based on department size, it also includes an open-ended catch-all which allows the unscrupulous employer to remove anyone from the bargaining unit if

they and they alone deem them to perform managerial functions. The association must then appeal to the Labour Relations Board. The increase in cost will be dramatic and the erosion of the labour-management relationship will be permanent.

It is certainly ironic that an employer would need all of these exclusions, given that they consistently resist the filling of the management positions they now have. I think the best example of that is the vacancies across Ontario with respect to the deputy chief position. Does the employer really need all of these exclusions, or is this simply a thinly veiled attempt to break up or bust firefighter associations?

Unamended, Bill 84 will escalate costs to both parties, as well as create an atmosphere of animosity and confrontation between the employer and the association where currently very little or none exists.

Next, I want to take you to privatization and part-time firefighters. That's section 41(1). Let me state unequivocally that there is an inherent difference between volunteer and regular, part-time firefighters. We realize that some communities may not have the resources to have full-time fire departments and, in these situations, volunteers may be the only alternative to no protection, or as another source of supplement to the full-time firefighters, what we have now is composite fire departments.

Part-time firefighters as described in Bill 84 are meant to replace full-time firefighters for one reason and one reason only: in an attempt to save money. Volunteers or part-time firefighters, given the expanded role of today's firefighter, cannot be expected to be as well trained or provide the same level of service as a full-time firefighter. The introduction of a part-time firefighter will seriously undermine the effectiveness of the team concept and inhibit the ability of the team to accomplish their assigned tasks.

We believe that full-time firefighters, highly trained and experienced, provide the best service. We urge the government to make the appropriate amendments to exclude part-time firefighters and include language that would encourage the development of proper full-time fire suppression capabilities across the province of Ontario.

Public fire departments are more efficient than private, for-profit ones, and provide more service for the same dollar cost as there is no need for a profit margin. Over 90% of fire department budgets are, by the very nature of the job, related to the cost of staffing. The only way that a private, for-profit fire service can offer cost savings over a well-managed public service is by reducing the service level that the public receives. Once a municipality has given up their fire department to a private one, they have lost control of that service.

Amendments must be made to this bill that will mandate municipalities to provide fire protection services as a public service.

I have heard the position of the government that the Municipal Act already allows municipalities to privatize. If the government's position is correct, then I guess the question is, why do you feel that it is incumbent upon you to enshrine that ability in legislation.

Government MPPs have asked deputants if they really believe municipalities would privatize the fire service.

My only response to that is: You wouldn't give a hired killer a loaded gun and expect them not to use it.

The next issue I want to talk about is the designated trade union. I am confused as to the rationale the government has used in its attempt to harmonize Bill 84 with the Labour Relations Act.

It is clear that the government has been very selective in the sections of the Labour Relations Act they included in Bill 84 and those sections which were purposely excluded. The government has decided that firefighter associations must now become certified trade unions and adhere to the certification process as described in the Labour Relations Act.

As labour relations deteriorate and costs escalate, firefighter associations will now contemplate or be designated for takeover with other organizations: CAW, Teamsters and in Hamilton, more specifically, the United Steelworkers. We are at a loss to understand why the government would want to encourage this.

Just in closing, firefighters in the city of Hamilton saw the video and read the letters of commitment made by Mr Harris prior to the last provincial election. Mr Harris assured us that a Harris government would make no changes to the Fire Departments Act until such time as professional firefighters had been thoroughly consulted. He further stated: "Our priority is maintaining and even improving the quality of front-line essential services. And how we do that must be determined by you, the front-line professionals, not the ivory tower politicians or bureaucrats who seem to have all the answers but none of the solutions."

Let me tell you that firefighters have traditionally, at least until this point, been a very conservative group of employees. In fact, if a poll were conducted in the city of Hamilton, I believe that over 70% of firefighters voted Conservative and voted for Mike Harris.

1450

The members of my association clearly didn't expect to hear, "Oh, yes, by the way, the discussion held prior to our government taking power was your consultation and now we are going to enact a piece of legislation that bears no resemblance to those discussions." What they did expect was that the Harris government would remain true to its word and let front-line professionals determine how to improve front-line services prior to passing this bill.

Firefighters have always had a special relationship with the community. Public satisfaction with the service we provide has consistently been at the top of all city surveys. Firefighters' dedication to the community doesn't stop at the end of a shift. Firefighters and their associations have made a commitment to make our communities better places to live, whether that be by collection for food banks, refurbishing bicycles for underprivileged kids or raising over \$1 million for the Hamilton General Hospital burn trauma unit. Firefighters care and the citizens of Hamilton care, and so far, over 15,000 individuals have signed our petition and agree with us that Bill 84 undermines the fire service and jeopardizes lives and property.

Firefighters, by the very nature of the job, are problem solvers. I believe that given the opportunity to sit down



with the government, the representatives of professional firefighters in Ontario would be able to resolve a number of these issues and provide some appropriate amendments.

In closing, I would just like to thank the committee for the opportunity to speak to you today. I know there's been a lot of public concern over Bill 84 and you have been assigned the arduous task of trying to fix some of these problems. I thank you for taking on this task and wish you good luck in your deliberations.

**The Chair:** Thank you very much, Mr. Watson. Unfortunately, there is no time for questions. I do thank you for attending today and providing your views and written presentation to the committee.

#### OAKVILLE PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation is the Oakville Professional Fire Fighters Association, Mr. Frank Titterson, representative. Good afternoon, sir. A written presentation has been provided to members of the committee. I'd ask you to proceed.

**Mr. Frank Titterson:** Mr. Chairman, members of the committee, ladies and gentlemen, my name is Frank Titterson. I would like to take this opportunity to thank the committee for the opportunity to speak before it and express my opposition to Bill 84.

Before presenting my own deputation, I would like to comment on a presentation that you received this morning from Oakville's mayor and fire chief. On page 3 of their paper, they talk about contracting out, and in the last paragraph they state:

"In Oakville's situation, the 'no contracting out' language in the town's collective agreement with its firefighters originated from a 1986 interest arbitration award. The award was vehemently opposed by the corporation. Since that time, the corporation has attempted unsuccessfully to negotiate changes in this area. Even the ability to consider alternate staffing solutions for maternity leaves has been unsuccessful."

The reality is that in 1986 the corporation's lawyer, in their dissent to this award, was vehemently opposing this by way of saying that should this award contain a contracting-out clause, they should pay for it with a pay increase. In 1995, contracting out was raised again, but due to social contract restrictions, all negotiations were suspended. We are currently negotiating our first contract since the end of the social contract. This is not vehement opposition to contracting out. The corporation only presented it to us again in 1995. I did not want this committee to go away with the impression that the Oakville Fire Fighters Association were a bunch of union toughs who were trying to thwart all attempts to save money. That was not the case.

Since the hearings started, you have undoubtedly heard all the arguments for and against this bill. I wish only to tell you my opinion and how this bill, if unamended, will impact my life as a professional firefighter and the lives of my family and friends in the city I protect. During my 22 years, I have tried to keep involved in all aspects of providing the best possible service to the community I

protect. I became a CPR instructor for our department when this program was first introduced. I was an active member of our emergency planning committee designed to deal with major emergencies. When our department started to handle hazardous materials incidents, I participated in the setup and training of our department. As our department grew and the need for a dedicated rescue vehicle became apparent, I volunteered and spent several years training myself and others how to save lives with specialized equipment. Most importantly I believe, in our community I have raised thousands of dollars for local charities while representing myself as a proud member of the Oakville fire department.

This may sound to you like I am looking for a pat on the back from my employers, the citizens of Oakville, but the truth of the matter is that my résumé would be very similar to the majority of members of the Oakville fire department. In return for our dedication, we are asking to be treated fairly by the management of the fire service, and if Bill 84 is passed, that will not happen. The safety of the citizens we protect and our own lives will be jeopardized.

Last year, the corporation of the town of Oakville instituted a master fire plan to guide the department in the years to come. One outcome of that report was to give the fire chief the ability to reduce crew sizes. Our association tried to explain to members of council that smaller crews would jeopardize public safety and quoted from the fire marshal the lack of ability of a three-man crew to perform lifesaving tasks. We also explained that the cost of providing minimum crew sizes of four men cost the municipality approximately 32.6 cents a day per taxpayer. By their own admission, some councillors had no time to review this plan but voted to accept it anyway, placing their faith in the fire chief. I believe this is happening again on the provincial level. You believe you are doing the right thing, but with the workload this government has been under, you have no choice but to believe information passed on to you from organizations and individuals that are interested not so much in public safety but the reallocation of dollars to offset the lack of provincial funding. Please send this bill back to be re-examined and solicit meaningful input from firefighters interested in protecting the public they serve.

Our service is deemed successful if our citizens have no reason to criticize our response times or if they've had a personal experience in which they believe we have performed at a level that kept their loss to a minimum. Bill 84 jeopardizes our ability to respond adequately and keep their losses to that minimum. By opening the door to part-time firefighters and reducing staff, you are saying it is all right to respond with less than fully trained personnel as well as less than adequate numbers to do the job effectively. You are also saying it is all right to put my life on the line by not providing a coordinated team for me to work with. I am well worth the 32 cents a day it costs to protect our citizens and my fellow professionals. First response emergency professionals deal in seconds and minutes, not weeks or months or years.

The Ontario fire service over the years has provided the best possible service with the tools they have been provided. There have been no withdrawals of services.



We have adapted to the guidelines set out in the Fire Departments Act and I believe that truly progressive fire departments have had no problem providing their citizens with an effective service, nor will they have any problems in the future. Do not be misled by those who say this service does not operate efficiently. The citizens of Oakville have stated that they were more than satisfied with our department. Why are you in such a hurry to proceed with a bill that has worked for decades? Is it more important to appease bureaucrats by offering up firefighters as a pawn for reduced funding or is the safety of our citizens and firefighters important enough to have meaningful talks with our representatives?

I would like to take a few minutes now to talk about another possibility under Bill 84: privatization. You have undoubtedly heard in other presentations of the horror stories of privatized departments. I am not going to repeat those stories but I am curious as to how privatization will benefit the citizens of Oakville. To maintain response times in case of emergency the same number of fire stations would be required. To adequately perform the same service, the same number of personnel would be required. To keep those personnel operating at a professional level, the same commitment to training and asset acquisition would be required.

The statement that private firms can operate more cost-efficiently leads me to assume that I and the rest of the fire service have been somehow negligent in providing the best possible service at the best possible price. This is not the case. The modern fire department provides a wide range of services: hazardous materials; high-angle rescue; confined-space rescue; vehicle extrications; ice water and fast water rescue; fire inspection; and public education — industrial, residential schools; fire suppression; medical services — first aid, CPR, resuscitation, defibrillation; emergency planning and coordination; as well as a host of other emergency services on an as-needed basis.

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From past experience, I know private firms operate on a profit basis. As experience has shown in the US, when profit falls, services decline or the costs go up. We are a highly trained professional service that operates only on the decision of local council and at a cost approved by them on behalf of their citizens. Any part of Bill 84 that would allow privatization must be altered to protect the citizens of Ontario from corporate profit structures that put public safety at risk.

The last area of change that Bill 84 impacts that I would like to speak to concerns exclusion from the bargaining unit. I am a captain on a firefighting apparatus. I am a firefighter. When I respond to an emergency, I do so to protect the lives and property of the citizens and businesses of Oakville. When called to action I have operating procedures and guidelines to follow that have been laid down by management. The lives of my crew and myself depend on our ability to operate as a unit. I am forbidden by rules and regulations from operating outside those guidelines as well as discussing department policies with the citizens I protect. I do have input to department policies, as do the crew members under me. Under incident command procedures, I must relinquish

control of an emergency scene to the first arriving senior officer. Any fire scene or suspicious emergency scene always has a senior officer in attendance.

The Fire Departments Act was designed to allow departments to operate without the encumbrance of management-worker strife. At an emergency scene, this is imperative. I do not believe the initial drafting of this bill intended to allow the disruption of the firefighting unit, but as you can see from the Oakville presentation this morning, the unclear wording in this legislation opens the door to many interpretations. Again, please talk to our representatives before passing a piece of legislation that will not accomplish the proper protection of the citizens of Ontario.

I must confess that the trust I placed in my employer and you, the legislators, to protect myself and my comrades is eroding quickly. In return for the sacrifices made in the past by this profession we are now faced with the reality that politicians at all levels are ready to sacrifice citizens, friends and family in order to achieve the perception that less is better. In the fire service less is cheaper, and that is all. The fire chiefs of some of the largest and most respected fire departments in this country have expressed to you their concern that this bill is flawed. Firefighter association executives have drawn to your attention areas in this bill that can adversely affect the way fire protection services are provided in this province. Private citizens have expressed their concern about their safety in a province where services continue to be cut, and now in the event of an emergency, they will not be able to rely on the speed, experience and teamwork of their fire service professionals.

I ask that Bill 84 be tabled, and as others have asked, a commission of inquiry be convened to review the fire service in the province of Ontario; that all concerned parties be adequately consulted before decisions are made; that promises made by the Harris government be honoured; and that members of this committee pledge that they will do everything necessary to ensure that the people of Ontario and the firefighters of this province will not have to endure Bill 84. Speed, experience and teamwork do save lives. Thank you for listening.

**The Chair:** Thank you. We only have about a minute per caucus.

**Mrs Ross:** Thank you very much for your presentation. You don't have page numbers, but on one of the pages you commented that "politicians at all levels are ready to sacrifice citizens, friends and family in order to achieve the perception that less is better." I personally take exception to that statement. I want to just put on the record here that I believe, and I have said this to our firefighters, firefighting is an essential service and should be maintained, and I believe in Hamilton-Wentworth, again I'll put it on the record, that we have probably the best firefighter service in the province.

Some of the things that you commented on here with respect to part-time firefighters I want to ask about again. For example, in our community, we have a couple of areas where they use part-time professional firefighters who have been trained in their job. Would you say that there would be perhaps a requirement or a need or the possibility that some municipalities' needs might be



different from other municipalities' needs? For example, in the region of Hamilton-Wentworth, the city of Hamilton is much different than the town of Glenbrook or something like that. Would you see the need might be a little different?

**The Chair:** I'm sorry, Mrs Ross, you've used up all the time in asking your question. You only get a minute. Mr Ramsay.

**Mr Ramsay:** Mr Titterton, I want to thank you very much for your presentation. From this I get a very strong sense of your professionalism and dedication to your job and to your community, and I know that's the same for all firefighters in Ontario. I take heed from your warning that we have to make sure we do our best to protect you and what you do so that Ontarians are protected. Next week we'll be moving amendments that will try to accomplish some of these things. Thank you very much for your input.

**The Chair:** Mr Kormos.

**Mr Kormos:** Thank you, Mr Chair. One minute, you said?

It's interesting that you point out the dilemma you encountered when you urged your chief to comply with the Ontario fire marshal's standard of a minimum four persons on — was that a pumper truck?

**Mr Titterton:** Yes. That's a minimum.

**Mr Kormos:** That's the minimum. I read the data from both the Ontario fire marshal and, I believe, the Newport, Rhode Island, study that showed that reducing it from four to three significantly reduces the ability to do internal suppression of fires, rescues of victims, and also increases danger to firefighters. The rate of injuries to firefighters increases significantly.

This is why I'm troubled by the government members who want to say that no municipality would ever allow firefighting services to descend to a level where they're less than appropriate. But it seems clear — and I'm not suggesting Oakville is unique — that municipalities across Ontario have been inclined to do that for a number of years now, notwithstanding the protests and objections of professional firefighters. Am I correct in that?

**Mr Titterton:** Oakville is not unique. This bill, because of its unclear language, would open the door to fire chiefs, politicians etc to make those cuts even though they say, "No, we don't want to." That's why I asked for that pledge that everything be done to ensure the citizens of Ontario are protected. It is being done, and it is done on an everyday basis.

**The Chair:** Thank you very much for your presentation here today.

ROY MALE  
JOHN JOHNSTON

**The Chair:** Our next presentation is Mr Roy Male. Excuse me, Mr Male, I am going to take a break. I don't mean to slight you.

**Mr Roy Male:** That's fine. I'd need one too.

My present position is director of human resources with the city of Burlington, and I'm also a member of OMHRA. With me is Mr John Johnston, who is a commissioner of human resources for the city of Hamilton

and the regional municipality of Hamilton-Wentworth, and a member of OMHRA as well. My intention is not to deal with the OMHRA submission. It's attached to mine. What we'd like to do is possibly bring some solutions to the table in terms of the needs of the residents, the needs of the employees and also the state of labour relations. Therefore I'll be confining my discussions to part IX.

But before we do that, a little story that happened in Burlington: A few years ago our council surveyed the community on a list of 32 services that our community provides, and fire protection came up within the top two or three of those services. So I can say that nearly every decision-making aspect that our council has taken has kept that in mind: to provide the safety and the protective services to the residents of Burlington.

What I'd like to address are the four themes of my presentation, those being flexibility and options, similar treatment and the benefits of provisions of the Labour Relations Act, potential roadblocks, and some comments on the arbitration system.

Obviously, we endorse some of the concepts in the bill in terms of management structure and exclusions in terms of flexibility, providing adequate and more resources to the chiefs to manage a wide and varied service. There are positive aspects in there as well in terms of employees who may have employee development aspirations of becoming chiefs. It's a very different set of decision-making situations and exposures that could benefit all. I guess in a normal situation, any manager who does a range of activities, from hiring, transferring, promoting, granting leaves of absence, giving performance feedback, corrective action or making decisions on company assets — in anybody's view, that would be a managerial position. So it's to provide the flexibility and provide extra resources to the fire chiefs. We endorse that situation.

#### 1510

In terms of flexibility and cooperation and partnership opportunities, there are many areas of the department that could be looked at. To address one area I've heard this morning, how you get the dollars for prevention and education, it might be in terms of reallocation if some flexibility and options are there. Don't forget, there are the areas of protection, prevention, education, training, mechanical work and also dispatch and communications.

One of the provisions of the bill that I endorse and we endorse is automatic aid. If you can look at the situation across boundaries, say between the cities of Burlington and Hamilton, where first response could be worked, if it's allowed to work the way the bill is structured, you could see the benefits to the residents in terms of a quicker response. You could also see the benefits in terms of how council's decision-making could improve if they weren't tied to having to allocate specific dollars, either capital for a new station or the operating costs of a new station, and reallocate to some other areas of that service. So you can see the benefits in both points if an item like automatic aid is allowed to work. I'll speak to that later.

In terms of flexibility in staffing and terms of employment, volunteers and part-time working in conjunction with full-time provide a very adequate and safe level of service across the province. In Burlington per se, we are a composite force with 100 volunteers and approximately

100 full-time firefighters, and it's been that way for many years. Our chief has also created an additional training position in the department to ensure that all people who respond, volunteers and professional firefighters, have adequate training and training opportunities to provide the service. If you look at other areas of the service, be it mechanical, dispatch, what have you, do they need to be filled by full-time people? They could possibly be filled by part-time people, and again resources allocated to areas where they are needed. It's not unusual, then, to allow councils and fire chiefs flexible staffing options the same as in any other business.

One hears some areas in the bill that would avoid some duplication and speed the process that we've endorsed as well. In terms of hearings in front of council for terminated employees, there's a very good grievance arbitration system available. Why duplicate it? It's proven to be successful in the past.

In terms of similarity to the Labour Relations Act, the bill starts to provide some of the areas that many unions and employers have been used to in the Labour Relations Act. The one area that's missing is any remedies. It just mentions areas, so we specifically ask that some remedies be put in. It's both fair and provides opportunities for the employer and the bargaining units for quick resolves to areas, be it in the areas of unfair practices, good-faith bargaining or even strikes and lockouts.

The key that I would be recommending to the committee is that many of these remedies are very quick and many of the remedies may prevent automatic resorting to interest arbitration or grievance arbitration, which usually are longer than a decision of the Labour Relations Board, and again it provides protection for both the employees and the bargaining unit and the employers to keep labour relations on track. So it seems to be a win-win situation that many of the unions are working with.

The other area I'm talking about are potential road-blocks. I used automatic aid as an example. Joint dispatch ideas have been put forth in many communities whereby centralized dispatch between communities may be of benefit to offer a better service more efficiently. There's also the possibility of coordination of training and partnering on education and prevention.

The typical provision in a collective agreement on "no contracting out" reads as follows: "No work customarily performed by members of the bargaining unit shall be performed by individuals not covered by this collective agreement unless there is agreement between the parties."

To start from base one, interest arbitration is supposed to replicate free collective bargaining. Many collective agreements in the fire area contain this "no contracting out," and many of them were placed in by the interest arbitration system. If you had a situation where it was freely negotiated, there would be significant tradeoffs between the parties, but what we're not asking for is a stripping out of this provision. Maybe there's another way to go about dealing with the contracting-out provisions in providing some of these efficiencies in the services like I mentioned that are above and beyond a protection area.

For example, how can some of these areas negate effective service delivery in protection and other areas to

the community? A classic case: In the Sarnia-Clearwater amalgamation, the no-contracting-out provision prevented volunteers from crossing over the Clearwater boundary. In an arbitrary decision in the early 1990s, and based on the typical wording, the volunteers in Clearwater, on an idea by council and the fire chiefs to service the whole area of Sarnia, could not go into the other jurisdiction.

It's also happened in other areas where mechanical duties in a fire area were sent to the public works department of the same employer. They couldn't do it because of the contracting out. There was no job loss involved; they just couldn't do it.

With those, there are some possible remedies. Some of them are redeploying, transition arrangements. Some contracting-out clauses with other unions say you can contract out if there are no layoffs: You deal with it through vacancy provisions and overtime. Another idea that employers like to resort to is voluntary exit packages, if so required and amenable and acceptable to the employees. So there are other ways to deal with these situations to stay on course to get the intent without ruining a collective agreement, and you're getting a win-win situation between the employees and the employers.

Lastly, with the arbitration system, the idea for the inclusion of the criteria is good. We haven't seen awards yet, so I think most people are from Missouri right now to see what the awards are going to look like, but the idea for conciliation is very positive.

In the interest arbitration system, the success of that is driven by the willingness of the parties to find in a collective agreement, and anything in between — bargaining straight to interest arbitration would be better for the parties. As an idea, we'd recommend you incorporate that for the grievance arbitration system as well.

Going to grievance arbitration does cause difficulty between the parties. I know in our case we're very successful with bringing mediators in, let's say CUPE's, between the fourth step and grievance arbitration. We have over a 90% success rate of finding the agreement at home, not with rights arbitrators, who again cost the bargaining units money and time, and the same with the employer. We strongly recommend that a provision be put in the act to allow for a party to ask for conciliation between a grievance procedure and arbitration, again to promote local decision-making and being responsible for that decision-making.

In conclusion, it's more than enough time for change. There are ways to do it that can be sensitive to both the needs of the employees and the employer. Change must allow councils to manage the services on behalf of their residents to provide effective and safe services.

Thank you very much.

**The Acting Chair (Mr Garry J. Guzzo):** Thank you, sir. Mr Johnston, do you have anything to add?

**Mr John Johnston:** No, I don't have any comments.

**The Acting Chair:** We have approximately five minutes for questions, and we'll start with the Liberal caucus.

**Mr Ramsay:** I'd just like to thank you very much for your presentation.

**The Acting Chair:** Any questions?

**Mr Ramsay:** No.



**Mr Bisson:** Thank you for your presentation. You, as many other people, including ourselves as New Democrats, are in favour of the portion of the bill that deals with prevention and education. Many municipalities, through their fire departments, are doing that now. We all recognize that's nothing new. It's been going on for a while, but we need to find a way to be able to make sure that people are doing it in their communities to a level that is beneficial to all.

I guess the question I have for you is that we see the bill dealing with mandatory education and mandatory prevention, but we don't see mandatory suppression. We don't see firefighting itself as a mandatory service in the act. Should it be? That's the first question.

**Mr Male:** I use, by example, the survey that our council did of the residents. Number one was protection. Prevention was up there. How you entrench that into an act, I don't know. I'm not a professional in that area, but again, flexibility and cooperation have to be there to do it. Protection is just as important as prevention and education, but if it becomes a resource issue, how can some common sense come to the table to reallocate to make both those happen?

**Mr Bisson:** That brings me to the second question: If we mandate prevention and education in the act, are you aware of the government giving you any extra dollars to be able to do this service?

1520

**Mr Male:** No, I'm not, but you can find within. Any area of any service in a municipality, and I'll use ours as an example, has gone through review, re-engineering, restructuring and reallocation. The option has been there to do it. There are a few methods we've proposed in here that it will act as a straight bar to it if an agreement cannot be reached. It can't be done.

**The Acting Chair:** Thank you, sir. I'm going to have to interrupt you. I apologize, but your time is up. For the government, Mrs Ross.

**Mrs Ross:** Thank you very much for your presentation. I wasn't in the room to hear all of it but I've briefly looked through it. I think, in the short time that I've been on this committee, your presentation has a great deal of proposals put forward, amendments that you think should be made and recommendations. I want to thank you for that because it's the first time I've seen someone come forward with some constructive amendments that I think we can look at.

**Mr Bisson:** Come on, Lillian.

**Mrs Ross:** I'm telling you the truth. Nobody's put forward an amendment per se, written down. I'm sorry —

*Interjection.*

**The Acting Chair:** Mr Bisson. Order.

**Mrs Ross:** The people from Hamilton have excellent ideas. All I'm saying is they have put down recommendations, per se, pertaining to each section, and I want to thank you very much for that.

**Mr Male:** Mr Chairman, if I may, I left out one recommendation that I think any bargaining unit will agree to. In the offences section of the act there are fines and imprisonment, and part IX is not excluded. As interest arbitration is supposed to have a chilling effect on bargaining, I think if it was an offence to interpret and

operate any collective agreement, it would probably be winter all year long, so we'd ask that you remove the imprisonment section from part IX of the act.

**The Acting Chair:** Very good point. An excellent presentation, sir, for which we thank you. Thought-provoking.

1530

CARMEN D'ANGELO

**The Acting Chair:** Next we have the Stoney Creek Association of Fire Fighters, Mr D'Angelo.

*Interjections.*

**The Acting Chair:** Please. Come on. Do you mind going outside to continue that? Mr D'Angelo, I apologize. Welcome, sir. You have 15 minutes. Please proceed.

**Mr Carmen D'Angelo:** Thank you for allowing me this opportunity to express my comments to you in regard to Bill 84. I'll break up my presentation into the following sections: I'll talk about volunteer/part-time firefighters; the Stoney Creek fire department as a model; training; fire prevention; and then offer a brief summary. Then there will be some time left for any questions that you may have.

I appear before you today as a resident of the city of Stoney Creek. I am very active in my community and I sit on several community committees. I am also very proud to say that I am a volunteer/part-time firefighter.

In addition to my role as a firefighter, I am involved with other activities within the department. I sit on the medical advisory committee, the joint occupational health and safety committee, and also on the newly formed Lakefront critical incident stress team. In 1996 I was elected as president of the Stoney Creek Association of Fire Fighters. This apolitical association was formed in order to promote volunteer firefighters in the community; raise donations for local charities, which we've done for the regional burn trauma unit and the Kids Help phone line; participate in local community events; and create friendship among the firefighters.

I want to take this opportunity to talk to you about Bill 84 and volunteer/part-time firefighters. I have mentioned that I am a volunteer/part-time firefighter. There is always discussion among my colleagues as to, are we volunteers, are we part-timers, or a combination of both? I'll let you as a committee decide what title you would give it.

As a part-timer, I am recognized by the city of Stoney Creek as a part-time employee. When I attend a call, I am paid an hourly rate. I attend regularly scheduled training sessions in which I receive an hourly rate.

As a volunteer, when my pager is activated, I decide at that time whether I'll go to the call or not. On a personal note, my decision to go to calls is based on my work schedule and any family commitments I may have. However, I usually am able to attend the majority of the calls.

Bill 84 needs to be amended in order to clarify the definition of a firefighter and the classifications. Currently, Bill 84 creates confusion on who is a volunteer firefighter and who is a part-time firefighter. I feel this is very important, especially when you discuss a composite fire service.

I want to talk to you about the Stoney Creek fire department and Bill 84. I use the fire department as a model only, and only as an example. Before I go on with my comments, I want to say that this is in no way a negative reflection on the full-time firefighters or on the fire chief. In fact, I'd like to say that the full-time firefighters in Stoney Creek have always presented themselves in a professional manner. They perform excellent work under an enormous amount of pressure, and I am honoured to work among them. I feel they are highly skilled and trained. The fire chief of Stoney Creek is a professional administrator and he's always conducting himself in the best interests of his community.

The Stoney Creek fire department began as a volunteer fire service for the township of Stoney Creek. When this township amalgamated with the other communities, the Stoney Creek fire department also expanded. In 1986, the department had 10 full-time firefighters, along with the volunteers. At that time, the Ontario fire marshal's office conducted a review and recommended that the department increase the number of full-time firefighters to 50 by the year 1991.

What happened in 1991? The department only had 32 full-time firefighters, 18 fewer than what was recommended by the fire marshal. This was a direct result of the local council failing to meet the needs of the community and the needs of the department.

A second review of the department was conducted by the fire marshal in 1994. This second review recommended an increase of 20 full-time firefighters over a three-year period, creating 52 full-time firefighters. The report went on to say that the levels should be reviewed in 1998 and 1999.

In 1997, there are 36 full-time firefighters. Again, city council failed to adhere to the recommendations of the fire marshal. Once again, the local councillors failed to address the needs of the community and the needs of the department.

To compare, I'll compare the city of Stoney Creek with a similar population base, the city of Welland. Currently, in the city of Welland there are 60 full-time firefighters with 60 volunteers. In Stoney Creek, we have 36 full-time firefighters and 96 volunteers.

The city of Stoney Creek is growing in all aspects. There are significant increases in industrial, residential, and commercial areas. How will the fire department grow with the city? Will there be an increase in full-time firefighters, in part-time firefighters, or a combination of both? Can the community rely on the local council to continue to ignore recommendations by the fire marshal?

Bill 84 needs to be amended in order to give the municipalities the guidance in staffing their fire departments. Residents of Ontario need to be protected from the failures of local councils. Bill 84 needs to be amended in order to have the necessary legal powers to ensure the safety of the community and the safety of the firefighters. There needs to be an independent third party, possibly the fire marshal, to have the ability to make binding recommendations.

I want to talk about firefighter training and Bill 84. Currently, there's a massive project to certify all firefighters across the province. This would create an educational

standard that all firefighters would possess. Such a standard is going to protect the lives in the community, the lives of the firefighters, and also reduce property loss.

1530

I feel Bill 84 needs to be amended in order to provide the fire marshal the resources it needs to carry out this certification process. It needs an expansion of fire academies, training facilities, and it needs support from all fire services in Ontario.

Fire prevention and Bill 84: Bill 84 is on the right path with regard to fire prevention. The authors should be congratulated for their foresight into the turn of the century. I think all residents of Ontario will benefit from this section of the legislation.

As for part IX in Bill 84, there is great debate on part IX, and I ask you to review this section. This review should consist of direct input from your fire chiefs and from the professional firefighters associations.

In summary, I offer the following amendments: to define and classify a firefighter in terms of full-time, part-time and volunteer; to periodically review fire departments and respective master plans; and to make binding recommendations to municipalities with regard to their staffing levels, their training and equipment; to proceed with your fire prevention legislation and to allow ample review of part IX.

I thank you for allowing me this opportunity. I wish you success with your Bill 84.

**The Acting Chair:** Thank you very much, Mr D'Angelo. We have approximately six minutes remaining, two minutes per caucus, and we will start with the NDP.

**Mr Kormos:** Again, an interesting perspective because up in Toronto at the beginning of these hearings, I had several thousand letters from volunteer firefighters across Ontario joining their professional sisters and brothers in crying out against part IX that you've spoken to as well this afternoon, one that causes concern.

You're right about Welland and Welland-Thorold. We've got a strong volunteer — I know these people, and they're committed volunteers. They're also cognizant of how important a base of permanent, full-time, professional firefighters is in the community, and they recognize how they complement that.

We talk about standards, though, and we talk about the number of hours, four years, an incredible number of hours to achieve status as a first-class firefighter. If the government is talking about creating a single standard for both part-time and full-time firefighters, it's either going to take an incredible length of time for the part-timer to become as qualified or — ah, the government may be contemplating lowering the standard. That's the other possibility. Somebody calculated almost 10 years for a part-timer to achieve the same number of hours as a full-timer, but maybe the government — they wouldn't do that, would they? They wouldn't think of lowering the standard for firefighters. I'm not sure. What's your view on that?

**Mr D'Angelo:** My view on the time frames of training the volunteer firefighter?

**Mr Kormos:** Part-time, so-called professional firefighter.



**Mr D'Angelo:** I'll speak from personal experience. Right now, with two years of service as a volunteer firefighter, I do not have the same level of expertise as the full-time firefighters. I think through a time frame, I could reach that level. I look at some of the senior colleagues I work with as volunteer firefighters — captains, they have 20 years, 15 years — and I think that they are at this level.

**Mr Kormos:** After 20 years, you bet your boots.

**Mr Ed Doyle (Wentworth East):** I was interested in your comment concerning your pager being activated and so on; then you decide whether you'll attend a call or not, and you say your decision is based on your work schedule and family commitments and so on. You say normally you're able to attend. Does this cause any kind of a problem as far as scheduling is concerned for the fellows who are full-time? How does it affect the numbers who appear at a fire, for example? How do you communicate with them that you will be there or not so they'll have enough members there?

**Mr D'Angelo:** When my pager is activated, the full-time firefighters who are presently at the station do not know the number of volunteers who are responding.

**Mr Doyle:** I see. So they always hope there will be more, to ensure that they're not short-staffed when they get there? Because I can imagine that this could present a problem.

**Mr D'Angelo:** That is correct. There is no defined number of people responding. However, in the experience of the station that I work out of, there is a very good response from the volunteers.

**Mr Doyle:** I see. Another question I had that is related to that would be your personal response time, when you are able to make it.

**Mr D'Angelo:** My personal response time is within three minutes from leaving my house to getting to the fire station.

**Mr Doyle:** So there's no conflict there. But there could be a staffing problem, in your view?

**Mr D'Angelo:** In which staffing of —

**Mr Doyle:** When I'm talking about numbers, as I had mentioned earlier.

**Mr D'Angelo:** At times. I wouldn't know the statistics on the number of times they run short.

**Mr Doyle:** Does it create a conflict of any kind, or do you feel that it may?

**Mr D'Angelo:** Which conflict is that?

**Mr Doyle:** A conflict between the full-timers and the so-called volunteers or part-timers.

**Mr D'Angelo:** In staffing of part-timers?

**Mr Doyle:** Yes.

**Mr D'Angelo:** I think the full-time firefighters should speak on that, on their opinion.

**The Acting Chair:** I'm sorry I have to interrupt. Thank you sir.

**Mr Crozier:** I too was interested in that comment about more or less responding as you see fit. In the volunteer fire department in my home town, which is other than the chief and deputy chief, who are full-time, there is a squad that's designated to be on duty and I would have thought that perhaps in your case there would be certain volunteers who would be considered to be on

duty or on call. I'm very interested to see that there's just no idea how many will happen to show up. That was surprising to me. You're telling us, though, that it could be that no volunteer would show up, although that's not likely to happen?

**Mr D'Angelo:** If I may, volunteers, my colleagues, are very dedicated in what we do, but it is true that most of them working a Monday to Friday shift, 9 to 5, for a call coming within those hours, there may be a reduction in the response as compared to after evening from Monday to Friday.

**Mr Crozier:** The experience of the department we have — I was mayor previous to this position so I had some knowledge of how they operated — was, as I say, that there is a squad that's on duty who are required to respond, but our experience was that in fact most of the volunteers do respond anyway, because of their dedication. I suspect that's the case in most instances with volunteer departments. Thanks for your submission. We appreciate it.

#### MOLLY SHANNON

**The Acting Chair:** The next presenter will be Molly Shannon. Welcome, Mrs Shannon. You have 15 minutes to use at your disposal.

**Mrs Molly Shannon:** Thank you. Good afternoon. As you know, my name is Molly Shannon and I am a teacher by profession, but I'm not currently teaching. I'm involved in public relations work with the Girl Guides of Canada at both the provincial and the national levels.

I appreciate the opportunity to speak to you today, and it's nice to see a few familiar faces: Ed Doyle and I, a few years ago, worked on a TV project up in Guelph; Mr Christopherson, who's on a break, is my MPP; and I've seen many of the rest of you on television.

I am opposed to Bill 84 because I think that it proposes significant changes to fire protection legislation, and in doing so, compromises public safety, public lives and public property. I don't have a written submission for you; in fact I don't even have a written submission for myself. I'm simply going to tell you a story about a fire and, in doing so, hope that I won't get too emotional about it.

For many people, 13 is an unlucky number. I'm not especially superstitious, but 13 is unlucky for me because it was on April 13, 1985, that our family had a massive house fire. It was 12 years ago, just this past Sunday.

It was a glorious April afternoon, not like the cold that we're currently having. My children were outside playing — they were quite young at the time — and my husband was in Toronto. I was inside the house. I was tidying up. The day before, we had had a new bed delivered, so I rolled the big ball of paper that came around the bed, and the tape and the string that went with it, and rather than taking the time to go to the garage and put it in the garbage, I shoved it into the fireplace. I did remember to open the draft. I threw in a match and it caught fire.

I don't know whether there was a chemical on that paper, whether there was a down draft down the chimney, but suddenly the flames started to leap out. I picked up

the poker and tried to shove the paper back into the fire. I wasn't having much success. Across the top of the fireplace there was an oak mantelpiece, and I was afraid that it was going to catch fire. I ran upstairs to get a blanket to beat out the flames if they did hit the mantelpiece — unfortunately, I didn't have a fire extinguisher at the time; I sure do now — but by the time I got back down the stairs the mantelpiece had already started on fire.

The fireplace was in a bay window. It was in the middle. There were windows on either side, and going from the floor to the ceiling there were drapes. The ceiling was a very old ceiling — this is a 1908 house — and the previous owners at some time had put up an acoustic ceiling. Today those ceilings must have fire retardant on them, but obviously it had been up for several decades and it didn't. So the flames went across the oak mantel, hit the drapes, went up to the ceiling and before you could believe it the whole ceiling went on fire.

1540

The living room is 29 feet long, and as I was running out of the far end of that room the ceiling tiles were falling down about me. I was burnt on the back of my head and the sweater that I was wearing that was made out of a synthetic — the fibres of it were melted into each other. I quickly ran up the stairs. I thought my children were outside, but I wanted to check, and I ran to the second floor and the third floor. Nobody was in, and then I did a really stupid thing; I stopped in the hallway and phoned 911. I know you're supposed to get out of a burning building, but I wanted to get that call in as quickly as I could. I phoned 911 and then I left the house. Of course the neighbours started to gather. The police arrived very quickly on the scene — a cruiser was just a couple of blocks away. He asked me if anybody was inside and I told him no. He took me across the road to sit on a neighbour's veranda. My children were crying. Then the fire department came screaming down the street. I get chills when I hear sirens, but when it's your own house the chills are absolutely unbelievable.

One of the fellows on the fire truck ran over, asked me if anybody was inside and I told him no. He looked at my hands, which were burnt, and he said, "You'd better get to hospital." I said, "Please let me stay until the fire is out." He went across the road and joined the firefighters, who had at that point hooked up the hoses and had entered the building.

Pandemonium hit. The windows popped in the house, flames came roaring out. The smoke was travelling, I'm sure, for blocks away. People gathered from all around. CHCH-TV arrived and also Spectator arrived. I guess, being a PR person, I know that it was a slow news day if they came to my house fire. I just sat there shuddering at what was going on around me.

Finally the fire was put out. The firefighter who had originally spoken to me came back over. He asked me if we had insurance. I told him we did. He asked me how the fire started and I told him. He said, "Were there any inflammables involved, anything like gasoline?" because it spread so fast, but I told him about the ceiling and of course I guess he knew. He then looked at my hands and

said, "Those are third-degree burns," and he said to the police officer, "Get her to hospital." One of the police department saw that my children were cared for. Another man from the police department stayed behind to talk to my husband when he arrived home from Toronto, and the firefighters got busy with the cleanup.

I spent the afternoon in hospital having my lungs checked and having my hands heavily bandaged. I didn't return to the building that evening. My husband and my brother came to meet me at the hospital and my husband and I went to my sister's house. My children were taken home with my brother and his wife. Of course I didn't sleep that night. I said to my husband, who had returned not knowing what had happened, "Did you go in?" He said, "Yes, it really wasn't that bad." So I thought, "Okay, maybe it's not that bad."

First thing the next morning we went down into the house. We pried the boards off the door and got inside. When I went into the house I was physically ill; I threw up. I said to him, "You said it wasn't that bad, and it's just terrible." The house on the first floor was burnt right back to the double brick walls, but the fire department had stopped that fire about a third of the way up to the staircase of the second floor. You could see it in the spindles. The first few were burnt, the next few were charred, and the last few were just black. The second floor was completely smoke-damaged. It looked as though somebody had taken a can of black spray paint and sprayed the entire house. Of course there was water damage because they had to pour water down on the fire. The third floor was just about okay. There was a door shut between those two floors. A door makes a major difference. There was just a little bit of soot and a strong smoky smell on the third floor. My husband said: "You see, it isn't that bad. It's only the first floor that's gutted. There's no structural damage to the rest of the house."

As the days went on, we had to deal with many things. We had to relocate our family, find a place to live. I had to find clothes for them to wear. We had to deal with the children's school and my husband getting time off work. There were hundreds of details, and of course I'm not going to bore you with all of them.

Amidst all of that we had to deal with the insurance company, and we very quickly had the harsh reality that we were underinsured. We didn't have enough money for the contents of our home, and we weren't sure we were going to have enough money to rebuild. The contents didn't bother us, because we said: "Well, it'll be like being married again and starting over. We've got enough money to replace essentials. The other will come with time." But we didn't know if we could completely rebuild our house. As I told you, it was built in 1908. We had restored it lovingly for 15 years, had finished with everything except for the kitchen and that ceiling in the living room, and we wanted it once again to have the oak floors with the inlaid walnut borders and the oak beams in the dining room and all the woodwork in the house.

Anyway, we talked with the insurance company. We got in touch with a contractor. Then when I was dealing with all the pain of the burnt hands and the trauma of what had happened to my family, the guilt that I had set the fire, I had to wonder, "Could we rebuild?" I remem-



ber one day standing out on the front lawn with the contractor looking up at the building and him saying to me: "You know, you're very fortunate. If the fire had reached that second floor, if it had gone to the third floor and gone through the roof, you would not have been able to rebuild at all without having to put a lot of your own money into it. If it had reached the second floor, you wouldn't have been able to rebuild the house, lovingly restoring it to its historical value."

Suddenly I gained a very strong appreciation for the firefighters of the Hamilton-Wentworth fire department. I knew that their quick response time, their professionalism and their competence had done an awful lot for me and for my family. That wasn't to mention the bravery and the courage they had to show to go into that burning building, as they show every time they go into a burning building.

We had only lost contents and property. I soon learned that things you have in your home are just things; most can be replaced, and some that can't, you learn to live without. I knew our house that we loved as our home was really just a building. But if lives had been involved, it would have been a very different story. I wonder what would have happened if there was a slow response time and a lack of competence, a lack of teamwork, experience and professionalism on the part of the firefighters if there had been lives involved.

My opposition to Bill 84 is that I think it threatens to increase response time. I think it threatens to cripple the fire department by having understaffed teams and understaffed emergency vehicles. I think it threatens to bring in part-time workers who lack the experience and also lack the ongoing training of professional, full-time firefighters. I think it compromises the safety of this community. It threatens to lose property, and it can be a life-and-death situation.

I know this committee has many difficult decisions to make. I hope you will make them with good judgment. I wish you well in your deliberations, and I hope your top concern will be for the citizens: for their safety, for their properties and for their lives.

**Mrs Ross:** Thank you very much for your presentation. I also have had the experience of having a fire in my home, and it's a pretty frightening experience. The one thing you want is to have the firefighters there as quickly as they can be. I agree with you that response time is certainly of primary importance. I want to thank you for your presentation.

1550

**Mr Ramsay:** I want to thank you very much for your presentation to us today. It's again another firsthand example of the importance of fire services in Ontario. I share your concerns about Bill 84.

**Mr Kormos:** Thank you, Ms Shannon. That's really a chilling story. You're not a firefighter.

**Mrs Shannon:** No.

**Mr Kormos:** You're not a shill for either the association or the federation, you're not a union goon come here, but you've been able to identify that the use of part-time firefighters, the prospect of even further reducing person power on a given shift is going to slow down response time and effectiveness. I suppose you are a

special interest group. Like a presenter said this morning, you're a special interest group; that's the group of homeowners and people who live in apartments and people who could become victims of fire.

**Mrs Shannon:** Yes.

**Mr Kormos:** So here you are, just another one of those special interest groups, by God; I hope you're one the government listens to. Thank you kindly.

**Mrs Shannon:** I hope so.

**The Acting Chair:** Thank you very much for your presentation, Mrs Shannon.

Mr Chairman, are you ready?

KEN PHILLIPS  
BOB DAVIDSON

**The Chair:** Ken Phillips and Bob Davidson. I believe that's the Brampton Professional Fire Fighters Association. Welcome, gentlemen. Are there two presentations or one?

**Mr Ken Phillips:** There are two.

**The Chair:** Please proceed.

**Mr Phillips:** My name is Ken Phillips. I'd like to thank you for this opportunity to make my presentation. As you've already pointed out, I'll be sharing my time this afternoon with Bob Davidson of the Brampton fire department.

I am a firefighting lieutenant with the Hamilton fire department and a member of Local 288 of the International Association of Fire Fighters, but I'm not speaking to you on their behalf this afternoon. The opinions I express are mine alone and should not be mistaken for the opinions of either my department or my union.

I've been a firefighter in the city of Hamilton for 21 years and have risked my life to save the lives and property of others. In that 21 years I have seen people's lives destroyed. I've seen disasters where complete rows of houses have been totally demolished; as a matter of fact, it was just a few blocks from Mrs Ross's house. I have worked at hazardous materials incidents, I've responded to heart attacks, I've seen people die and I've seen them brought back to life with automatic defibrillators, and I had the pleasure a couple of years ago of bringing a new life into this world.

I'll tell you now that Bill 84 in its present form is a recipe for disaster. I'm sure many of the union representatives have discussed the many problems in part IX of the bill, but I would like to urge you, this government, to listen to a front-line firefighting officer about what you are about to do to the teamwork involved in firefighting.

Firefighting isn't like working in an office or a factory, where if the team doesn't complete its job, the production slows down or a memo isn't sent. If a firefighter doesn't do his job or doesn't know how to do it, people die or massive amounts of property are lost.

What the government is proposing in this bill, or what they are allowing to happen, is the introduction of part-time firefighters. Let me explain why this system of firefighting will not work. As I said before, firefighting is a team effort and this team must be fully trained, must have experience and must, above all else, be able to rely on their fellow firefighters.

When you're going into a fully involved house where the temperatures may exceed 1,000 degrees, when you're not sure if anyone is trapped inside, when the flames are licking over your head and the smoke is so thick you can't see your hand in front of your face, you must be able to rely on the firefighters behind you. You have to trust that they won't leave you in that hell by yourself. You have to rely on their experience to see things you might have overlooked; things such as flashovers, where the smoke in the room all ignites at one time, it's like a miniature explosion, or a bow in a wall or if a ceiling is about to cave in.

You have to trust that the training that firefighter has received has taught him all of these things. You have to trust that he has the experience to see these things. He has to have the training and the experience to support decisions you make, and you have to know in your heart that you can depend on him, trust him with your life, if the situation should, as it often does, turn for the worse.

In all honesty, how can you expect a professional firefighter who trains on a daily basis, who has been in these types of situations, whom you've relied on in the past, to trust or depend on a part-time firefighter? This part-time firefighter may work only two or three shifts per month and may have the minimum amount of training that is required by the Ontario fire marshal's office. This part-time firefighter may be filling in for holidays, sickness or — that new term in our society — he may be full-time part-time. With the downloading of the responsibilities of the provincial government, all of these scenarios are possible.

At the present time in Hamilton, a firefighter must complete and be within the top 10% of all candidates in a rigid and necessary physical and mental qualification process. After he is hired, he must complete a 400-hour training session to teach him the basics of how Hamilton firefighters fight a fire. He must write a promotional exam every year for the next three years to ensure that he has learned the necessary skills to be a first-class firefighter, and during all of this he must learn about hazardous materials, high-angle rope rescue, vehicle extrication and all the other aspects of being a firefighter and a lifesaver.

What this government and the Ontario fire marshal are proposing is that I should put my faith and my life in the hands of a part-time firefighter who has completed a minimum course in firefighting.

I'm a lieutenant on a pumper in the Hamilton fire department, a team leader you might say, and I know that the firefighters I work with have all completed the minimum amount of training as set forth by the Hamilton fire department. I know that I train my firefighters five hours per day and that they must receive a mandatory minimum of 180 hours' training in a year. I know that firefighters I work with have been nurtured and trained by older and more experienced firefighters and that they have never been forced into a situation before they were ready. I know that all of the firefighters in the Hamilton fire department can be trusted to know their job and to apply every bit of strength and energy to complete their task.

You cannot expect or demand this type of commitment, devotion or professionalism from a part-time fire-

fighter. Undertrained, underexperienced part-time firefighters will not be part of the team. The direction this government is proposing will not only cost the lives of the people of Ontario, it will also cost the lives of many brave and caring professional firefighters.

On this date in 1912, a captain refused to listen to the advice given to him by the front-line men and officers. That captain was not a firefighter but the captain of the Titanic. I would ask that this government not sink the firefighters of this province to the bottom, but listen to us and together let us prepare a bill or make amendments to this bill that will serve the people of this province.

Thank you for listening to me, and thank you for taking the time to hear the concerns the public has about this bill. I am sure that after hearing all of these concerns the public has, you will amend this to the benefit of all of the citizens of this province. I'll now turn it over to Mr Davidson.

**Mr Bob Davidson:** Thanks, Ken. Mr Chairperson, members of the standing committee, I'm not prepared to read you my brief. You can do that on your own. What I am going to tell you, though, is that I'm a district chief with the city of Brampton fire department and I'm vice-president of the association. So I wear two hats.

The meat of my presentation is on the last three pages of my brief, so I'm going to work backwards if you'll allow me. On those last three pages you'll see a table. On that table is the number of potential exclusions in the Mississauga and Brampton fire and emergency services. You can see that Mississauga has a complement of about 500 persons, and of that 500 there's a potential for 126 exclusions, roughly 25% of the force. Brampton is no different. Of a complement of approximately 260 firefighters, fully 64 have the potential for exclusion.

You might say, "Well, a municipality would never act unreasonably and initiate any type of an exclusion to that extent." You'll see on the next two pages a submission for a collective agreement change submitted to the Mississauga firefighters this year in which they are indeed proposing to pull out all 126 people.

Even Fire Chief Tom Powell in a submission to this very same committee, when talking about an amalgamated Toronto, talked about a complement of about 3,500 people, and of that 3,500, he suggested that at most they would need an exclusion complement of 27 to 30. You can see that if your assumption is that municipalities will act responsibly, indeed that's not the case.

**1600**

If you accept the chief's, AMO's and the fire marshal's submission that indeed there isn't enough of a management team complement, two is not enough, if you accept that, and I don't, I can tell you without any reservation that I do function as a manager. I initiate discipline, I investigate discipline matters, I make a report to management. In fact, the only thing I don't do is hand out the discipline. At the same time, I'm chair of the grievance committee and vice-president of the association. So if I have to deal with a discipline matter, I simply defer that matter to other members of that committee. You might say members of our association might have a problem with that. I can tell you that I've been re-elected on a



number of occasions, and there has been no problem whatsoever with that type of a scenario.

With regard to discipline itself, I can tell you that most modern companies and most modern managers perform modern management techniques, such as coaching, counselling, interviewing and performance appraisals, and discipline is one of the last things that ever comes up. Our fire service is like that. Rarely is discipline ever meted out. As far as retribution from my association is concerned, there's none. The only retribution that comes up comes up from the management side if I don't act expeditiously when it comes to a discipline matter.

As for the need for further exclusions and other matters of management, I have the ability to transfer, to perform performance appraisals, to hand out leaves of absence. I perform in a number of confidential capacities on behalf of my corporation. Page 2 of my brief has a list of the confidential committees that I sit on. I can tell you that my fire chief and my deputy fire chief rarely, if ever, attend an emergency. They delegate most of their decisions to people like me. They're notified in extraordinary circumstances, and I can tell you that the system is effective and efficient.

With regard to other labour relations issues, I can also tell you that a corporate team is set up to handle that. It consists of human resources people, corporate lawyers, commissioners and the fire chief. In fact, the deputy fire chief never sits on those labour committees.

If you accept the argument that more exclusions are required, the bill allows for the pendulum to swing too far the other way. There's a potential for too many exclusions, and it's just a matter of the employer changing job descriptions in order to allow those exclusions; at the back of my submission, I tell you that in fact Mississauga has done just that. I'm reliably informed by the Mississauga local that in fact their chief has changed their job descriptions to allow for 126 exclusions.

I can say to you that my recommendation would be that if you're bent on changing the exclusion numbers, that you limit it to something similar to what's included in subsection 58(5) of part IX and that there be a fixed amount based on department size.

With regard to part-time firefighters, I supervise 45 volunteer/part-time firefighters, as well as 55 full-time firefighters on my platoon, and I can tell you, since everyone else appears to be afraid to say it, that there is absolutely no comparison between a part-time firefighter and a full-time firefighter. I've taken a couple of political science courses. I wouldn't dare think I'd have the ability to function in government at the same level as you MPPs do. It's the same comparison. It's the same comparison as a first-aider and a registered nurse or a student pilot and a 747 captain.

It's my job to evaluate these people, and I'm telling you there's no comparison. Even a volunteer part-time person with 30 years' experience at 100 calls per year and one hour of training per month, how can you ever think there would be any comparison with a firefighter who responds to 8,000 to 12,000 calls a year and trains every day for two to four hours? It's just impossible; the numbers aren't there. I submit to you, with deep respect, that indeed there is no comparison with the part-timers.

With regard to the issues I've touched on in my brief presentation, I would ask that you take my recommendations into serious consideration. I'm a front-line service provider, and I'm giving you what I consider my best opinion on the subject.

**The Chair:** We have used all the time. Were there any —

**Mr Bisson:** Just quickly, Chair.

**The Chair:** You have 30 seconds.

**Mr Bisson:** I appreciate your analogy about the Titanic and the captain not listening to the crew. I bet you he was part of the management exclusion clause in that particular luxury liner.

**The Chair:** Is there anything from the government? Thirty seconds. That's all we have.

**Mr Klees:** I think we should recognize Howard Hampton, who's just joined us, the leader of the NDP. I'm just wondering if he brought 14,000 amendments with him today that we'll have to deal with.

**The Chair:** That's not addressing the issue, but in any event —

**Mr Howard Hampton (Rainy River):** You don't want an answer, Chair?

**The Chair:** Gentlemen, I thank you very much for your attendance, and the committee welcomes the member for Rainy River.

#### BURLINGTON PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation is the Burlington Professional Fire Fighters Association, Jim Simmons, president. I believe you will be accompanied by Patricia Carpenter, Davie and Nicky Carpenter. Welcome. Please proceed.

**Mr Jim Simmons:** Good afternoon. Mr Chairman, members of the Committee, my name is Jim Simmons. I'm the president of the Burlington Fire Fighters Association, the vice-president of the Provincial Federation of Ontario Fire Fighters, and have been a firefighter in the city of Burlington for the past 28 years.

I've got 15 minutes here and I could spend that time telling you about this clause of the bill or that clause of the bill and why I think they aren't a good idea, but let me simply say, please listen to firefighters and the citizens of Ontario and withdraw part IX of Bill 84. I've seen studies and reports and read analyses from which I could quote at length, but none of that material could ever say as much as Patricia Carpenter said to me. What Patricia Carpenter said is what this committee needs to hear.

I met Patricia under unhappy circumstances. On the evening of July 28, 1994, a call had come in to the Burlington fire department, a house fire on Francis Road, children trapped. Within two minutes, the crew of pump 1 and a platoon chief were on the scene. Smoke was rolling from the windows. The crew from pump 1, Captain Beatty and Firefighters Grison, Sherwood and Alldridge, seated behind me, advanced an inch-and-a-half line off the truck, donned protective gear and headed for the front door.

The platoon chief was holding back Patricia Carpenter. She was crying and calling out. Her son Davie was trapped inside. She had fought the smoke early in the fire, but couldn't get to her five-year-old son Davie. She had lost him in the smoke and had been forced to flee with her younger daughter, Nicky.

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Frantic neighbours had tried to get into the house, but the smoke was too thick. Moments after arriving, the three firefighters were upstairs carrying out the search and rescue procedure they had practised together again and again. Each one took a room. They dropped to their hands and knees in the heavy smoke and conducted a sweep of the floor. Blinded by smoke, the firefighters felt along the floor with their hands, systematically covering the rooms.

Firefighter Grison felt Davie's body on the floor of his bedroom and called out to the others. They carried Davie out to the front of the house. The boy was VSA: vital signs absent. CPR, cardiopulmonary resuscitation, was initiated on the scene. Davie was rushed by ambulance to St Joseph's Hospital, where he made a full recovery.

I can tell you about speed, I can tell you about experience, I can tell you about teamwork and professionalism, but I'd prefer to let Patricia Carpenter do the talking. When I spoke to her last she had this to say: "If it weren't for the quick arrival, fast action and skill of those firefighters, Davie would not be with me today." Is there anything more that this committee needs to know?

I have with me today some of those people I've just told you about, the crew from pump 1 seated behind me, Captain Beatty, Firefighters Sherwood, Grison and Alldridge, Patricia Carpenter and her son Davie. I'd like to leave them with the opportunity to say a few words if they like.

**Davie Carpenter:** I'd just like to say thank you.

**Mrs Patricia Carpenter:** I'd just like to say thank you to Greg and the team. I feel that if it weren't for all of them being together, David wouldn't be with us today.

**Mr Simmons:** On behalf of the Burlington firefighters, I'd just like to take this opportunity to say thanks for being able to speak with the committee. I know I haven't used up my 15 minutes, but it was necessary to relay this to the committee because I believe and the firefighters in Burlington believe it's important.

**The Chair:** Thank you. We do have some time, about three minutes per caucus, if there are any questions. We start off with the third party.

*Interjections.*

**Mr Christopherson:** Sure, we all want a chance to respond.

**Mr Bisson:** The democratic process.

**Mr Christopherson:** Yes, we were going to call a quick subcommittee meeting. It's unfortunate the media aren't here, because I think this is the sort of message they need to hear. It personalizes the issue. All day we've dealt with a lot of technicalities. We've dealt with structures, we've dealt with systems and we've had some people talk about personal experience, but I think everyone here will agree that when we talk about kids, it transcends everything.

I think we would want to ask you, Patricia — we had earlier submissions that you can't place a price on life-saving services, you can only place value. I wonder what you think about the idea of having a private fire service. I realize it's sort of a political question, but just from your experience, how would you feel about a private fire service versus a public service like we have now that's accountable to the people, that has to answer to you and your family? Would you be concerned about seeing it privatized and turned into a profit-making enterprise?

**Mrs Carpenter:** Yes, I would. I just feel that you need the whole team together. If people had to be called from their homes, it would take much longer and that would make the difference between life and death.

**Mr Christopherson:** Great, thank you very much. I also just wanted to say to Davie, you've got a great name and I like the way you comb your hair.

**The Chair:** Mr Hampton, we have about a minute and a half left.

**Mr Hampton:** I have a question of the four firefighters, Captain Beatty and Firefighters Grison, Sherwood and Alldridge. Could I ask you each individually how long you've been firefighters? It's more for my own information. Captain Beatty?

**Mr Dave Beatty:** Almost 21 years.

**Mr Hampton:** And Grison?

**Mr Greg Grison:** Ten years, sir.

**Mr Hampton:** Sherwood?

**Mr Don Sherwood:** Ten.

**Mr Hampton:** And Alldridge?

**Mr Brian Alldridge:** Twenty years.

**Mr Hampton:** Thanks very much.

**Mr Bisson:** Do we have time for a quick question?

**The Chair:** One minute, Mr Bisson.

**Mr Bisson:** Thank you very much, Chair. On this committee, we've travelled around to different communities — Thunder Bay, Sudbury; we've been in Toronto and other places — and time and time again people have come forward and given presentations of why part IX of the bill is problematic, along with others. The government seems intent, however, in going forward. I guess the question I have to whoever feels more comfortable answering it is: Do you believe that the government will amend the bill? That is the first question. If they don't, what then? What does it mean?

**Mr Simmons:** I would hope that the government is listening to the 200,000 names that have been delivered to them. I say that very sincerely. Please, amend the bill. Please, withdraw part IX. Listen to the people. We would gladly, as firefighters, sit around the table again, and we can do it properly as opposed to the way it is presently put forward.

**Mr Klees:** Thank you very much for your presentation and welcome. I just want, for the record — we've said this a number of times in the course of the hearings, but I think it's important that you hear as well that there isn't a member of this government who disagrees with you about the importance of supporting the firefighters in our community. There isn't one person on this committee or within our government who would suggest that unprepared firefighters should be asked to do the job that needs to be done in the community.



I also want you to know that I signed that petition as well and I do not disagree with the 20,000 or however many thousands of people there are who agreed with the sentiments of that petition, because if you read that petition very carefully, it clearly states that Bill 84 should support the safety that we can all expect and need to expect in this province from our firefighters and that whatever amendments might be necessary to make to that bill should be done to ensure that safety level is assured.

I absolutely agree with that and I think it's important as well that we keep in perspective that the very reason we're here is to hear from people like yourselves, to listen, because the legislative process, as we all know, is such that after second reading of a bill, we invite public participation, that we try to do the best thing in the public interest to make that proposed legislation better and more workable for everyone. While I hope there won't be 14,000 amendments coming forward, we fully intend that at the end of the day, based on the hearings we've had, based on the information we've received, there will be amendments that will improve this bill.

We may not all agree on what those amendments should be, but ultimately I want to assure you that the objective of this government and of this committee is to ensure that we have the best possible bill in place to support the men and the women who are on the front lines of firefighting in this province. Thank you very much for your support.

**Mr Ramsay:** Jim, thank you for your presentation, and Mrs Carpenter. Jim, do you want to say some response to Mr Klees there before I go on? Do you have something you'd like to say?

**Mr Simmons:** Mr Klees, I would hope that the commitment from the government to make the appropriate amendments to Bill 84 — firefighters support the prevention and the education aspects, but please, I appeal to you one more time, take part IX out of there and let the people make it right.

**Mr Ramsay:** Jim, I'd like to echo those thoughts also because, Mr Klees, on Monday afternoon of next week we'll be looking up the Hansard record of what you've just said now. There will be some substantive amendments brought forward by the opposition parties, but I, like others here, hope that the government also is going to bring forward some substantive amendments that we could all work on.

But whatever, I hope that after hearing all the different presentations we have heard in the seven days we've been out in public hearings, some of these messages such as we've just heard here in Jim's and Patricia's presentation, do get through to the government, that we are concerned about the quality of fire service in this province and that the professionals, the people who do this job day in and day out, really believe that there are many aspects of Bill 84 that are going to make fire service suffer in this province.

What we're asking for is some breathing room in this. There are some very good aspects of this bill and, as I said before, we could all sit down and pass this thing next week if you delete part IX, and then let's take a little time and let's put a deadline to it. But let's say we want all the parties to sit down and try to work out the labour relations aspect.

I think it's also very important to know, and some people have mentioned it, why we're even mixing labour relations with fire protection and fire safety. They're two entirely different aspects of how we deal with the public service. I really don't think they should be mixed there.

Jim, you gave us some good advice to delete that and we can work on it later. I take it you've got a commitment that you would sit down and work with the government and fire chiefs and all parties to iron this out.

**Mr Simmons:** Absolutely.

**The Chair:** Thank you very much, Mrs Carpenter, and Davie and Nicky. Having four children of my own, I know how important and precious children are, so thank you for sharing your experience with the committee.

**Mr Klees:** Mr Chairman, while the next speaker is coming up, I wonder if we can get a commitment from all members of this committee that we apply speed, experience and teamwork in bringing this bill forward.

**The Chair:** You're out of order, Mr Klees.

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GREG PHILLIPS

GEORGE BUGIARDINI

TOM HORNBY

**The Chair:** Mr Greg Phillips.

**Mr Greg Phillips:** Good afternoon, Mr Chairman. I'm going to be speaking with Mr George Bugiardi and Mr Tom Hornby sharing my time.

I'm a professional firefighter employed in the Hamilton fire department and I live in the city of Hamilton. I would like to take this time and opportunity to thank the public hearings committee for allowing me to speak on the government's proposed Bill 84.

In 1987, Chedoke McMaster Hospitals, being the base hospital for paramedical services within the Hamilton-Wentworth region, applied to the provincial Ministry of Health for approval to purchase heart defibrillators for placement in ambulances throughout the region. In 1988, ambulances in the Hamilton-Wentworth region were equipped with heart defibrillators. It became apparent that the introduction of the defibrillators had no real impact on survival rates in the Hamilton-Wentworth region.

Dr Michael Shuster, medical director of the base hospital program at Chedoke McMaster Hospitals concluded that the main factor which impeded the survival rates of cardiac patients was the time between the initial emergency call and the time the first defibrillatory shock was administered. Dr Shuster concluded that the ambulance's prospect for improving response times was negligible.

In 1989, a pilot project was initiated by Dr Shuster and Hamilton Fire Chief Len Salmarsh to introduce a tiered medical emergency response in which firefighters would be trained in the use of defibrillators. This initiative proved very favourable because firefighters could be at the scene of a medical emergency within three minutes within the city of Hamilton.

I would like to tell you of an incident that took place on November 13, 1992, when a man, while driving along Main Street, suffered a major heart attack. His wife stated that her husband had stopped at the red light and then

began to proceed through the intersection when she noticed that he was driving erratically and realized he was unconscious at the wheel. She was able to grab the steering wheel and managed to steer the car to the right-hand side of the curb and stop.

Fortunately, the car in front of them was occupied by two off-duty paramedics who rushed to their aid and administered CPR. A Dr Cunningham witnessed the accident from his office, called 911 and went to their assistance. The gentleman had no pulse and was not breathing when the Hamilton fire department crew arrived within approximately two minutes from the 911 call. The fire department crew assessed that the patient had no vital signs of life and began the life pack protocol using the heart defibrillator.

The firefighters attached the patches for the electrodes and two shocks were administered before the ambulance arrived on the scene. He was transported to the hospital where he received two more shocks and was stabilized in the emergency room. He later had bypass surgery and a pacemaker and is now a healthy and active family member, thanks to the professional firefighters of Hamilton and all those who helped that day.

The doctors at McMaster Hospital told his family that he was a very lucky man to have been in Hamilton, because if he had been anywhere else in this region, he would not be here with his family or able to enjoy his children and grandchildren.

When seconds are critical and speed, experience and teamwork of firefighters are just a 911 call away, I remember vividly on November 13, 1992, the city of Hamilton was the only city in Ontario with professional firefighters trained in heart defibrillation. I am very thankful because the man in need of defibrillation was my best friend, he was my father. Thank you for your time.

**Mr George Bugiardini:** My name is George Bugiardini. I'm employed with Slater Steel as director of purchasing, and I would like to thank this committee for allowing me to speak to Bill 84.

I disagree with Bill 84 and any legislation that would slow down response time or reduce the number of firefighters in a unit. In an emergency response, this could mean the difference between life and death.

The city of Hamilton is reputed to have one of the best if not the best fire department in Ontario, Canada, and for that matter, North America. Why would you want to change something that is near perfection?

I lived in Hamilton for some 39 years where the fire department response time is two to three minutes. I currently live in Ancaster and found out the hard way that a volunteer fire department response time in the middle of the night can be 12 to 16 minutes. And I'm not knocking the volunteers. Without them, I'd have had nothing.

On the night of January 29, 1995, my wife and I suffered a very traumatic experience that I would like to share with you. We had gone to bed at approximately 11:30 pm. Before retiring, my wife turned on our self-cleaning oven. At approximately 1:30 pm, our smoke detector went off and I immediately jumped out of bed.

My wife said, "Don't be alarmed, it's only the self-cleaning oven venting a bit of smoke."

Upon arriving in the kitchen, I discovered more than a little bit of smoke and immediately called the fire department and went outside to await their arrival. After waiting several minutes, and it seems like an eternity when you're waiting when there's a fire going on, we awakened our neighbours to call 911 again. They said they were on their way. This was repeated again several minutes later. When the fire department did arrive, the fire was extinguished in a matter of minutes, but not before our kitchen was completely gutted and the rest of our home damaged from smoke and water.

Our total insurance claim was \$164,000 — a five-minute fire. We were out of our house for some four months during reconstruction. We feel this is a lot of damage and could have been avoided with a quicker response time.

My personal example demonstrates my reasons for being opposed to Bill 84 or any other legislation which would affect response time or the number of emergency personnel at an emergency situation. Thank you for your time.

**Mr Tom Hornby:** My name is Tom Hornby Jr. First of all, I'd like to thank you for the opportunity to speak to you. I realize by the look on your faces, you've probably had a long day. I have one more story to tell you which is actually very important to me because it occurred about four weeks ago. You have the document in front of you, but I will read from it.

On March 19, 1997 at approximately 2 o'clock in the afternoon, I was teaching at a high school in the middle of Hamilton, at the corner of Wentworth and Wilson, Cathedral high school. My parents live three blocks away and I was informed that I was needed immediately at my parents' home; there was an emergency.

I left my school, immediately drove over. I expected the worst. When I turned the corner on to Huron Street I saw two fire trucks and two ambulances in front of my parents' house. I ran inside and was told my mother had gone into full cardiac arrest. I was then told that the paddles had been used to start her heart again and that she had an external pacemaker on and was being given oxygen.

I saw her lying on the bedroom floor and the firemen and paramedics were caring for her. They eventually brought her down the stairs and transported her to McMaster medical centre. There she received superb care from the doctors, nurses and support staff. On Friday, April 4, 1997, my mother came home, where she is currently living.

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I walked into the fire station at Barton and Wentworth on the Friday afternoon that she came home to inform and thank the firemen for all they had done. They were genuinely pleased to hear about my mother and to get some feedback.

I am here today to tell you this story and to recognize, and I do emphasize, the real heroes in our world. These brave men and women put their lives on the line daily. They provide services and care that we, as a society, can never put a pricetag on. They are highly trained, caring



individuals, and I speak from my own experience. They saved my mother's life. My family — my brothers, sisters, cousins, aunts, grandchildren — had a chance to tell our mother how much she means to us and how much we love her.

Those people responsible should be applauded for having such dedicated individuals working for them, and that includes you, the government. I could never express enough how fortunate we feel. These people have special gifts and they are truly blessed.

There is no amount of money that equates to a person's life. I ask every one of you here to really think about the one person who means a great deal to you. Picture that person in distress and in need of those firefighters. Believe me, they are the very best, worth every cent we give them and more.

However, they go beyond that. I saw it wasn't just a job to them. I saw that there is more to them than that, and that is why I am here on behalf of my family and all the families who rely on them and take them for granted. I am here because they were there for my mother, these men and women who, I told my students and staff, are the real heroes.

I put a little PS at the bottom. The response time was so good that my mother was in total arrest for, they feel, between five and 10 minutes. She suffered no brain damage because of their quick response. She is totally lucid today. Thank you.

**Mrs Ross:** I want to thank you all for your presentation. I think you bring home to a lot of us the importance, and we all know the importance, of firefighters. For me personally, being caught in fire is one of my worst fears, and so I believe that firefighters are an essential service and we need to preserve them and ensure that they're there. I just want to thank you very much for bringing your personal experiences forward.

**Mr Ramsay:** I'd like to thank all three of you for bringing your personal stories. I think they're very important for all committee members to hear as we contemplate what changes we need to make to Bill 84. I just hope that with your contribution and others that we're able to convince the government members to make the important changes we need to this bill.

**Mr Bisson:** I have just one question, and that is, we've heard time and time again people come before us and talk about this whole issue of part IX of the bill. We hear the government saying sort of the right things. We just heard Mrs Ross, and prior to that Mr Klees and others, talk about how firefighters are really important: "Boy, we support them. We're on their side. Boy, oh boy, we want to do the right thing." Do you think they'll do the right thing? Do you have confidence that the government will actually listen to what you people are saying?

**Mr Hornby:** Don't ask me, I'm a teacher. No offence. It would be unfair of me to answer, however.

**Mr Bisson:** All right. We'll do that on Bill 104. We'll see you on Bill 104. To the firefighter?

**Mr Phillips:** I would hope with all the public hearings and signatures that we can work something out for section 9.

**Mr Bisson:** And if they don't listen, if they don't make the amendments, then what?

**Mr Phillips:** Response time suffers.

**Mr Bisson:** But what does that say of the government?

**The Chair:** Mr Bisson, our time is up. Gentlemen, I thank all three of you for attending here today and assisting the committee.

## INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

**The Chair:** Our next presentation is on behalf of the International Association of Fire Fighters, Elliott Hastings, retired district chief of Mississauga. Your written brief was handed out this morning with the picture on it, so please proceed, sir.

**Mr Elliott Hastings:** Good afternoon, Mr Chairman and members of the panel. I also would like to thank you for the opportunity to come before you this afternoon and bring to you some of the concerns that I have as a retired district chief and a representative of the International Association of Fire Fighters. I apologize if, late in the day, some of the things that I say to you will be slightly repetitive, but I think if there's a value in that, it's that you'll know that these are overwhelming issues of concern to firefighters. I apologize if we're slightly repetitive, but hopefully that brings the point home.

Ontario fire and emergency services are among the finest on the North American continent, indeed the world. New services and the constant improvement of those already provided are ongoing: hazardous materials spills, high-level rescue, fast water rescue, extrication from automobile and industrial accidents, cardiopulmonary resuscitation, heart defibrillation and other emergency medical services, fire prevention inspections, fire suppression and virtually any community emergency or disaster. These emergencies and many others are the dangerous workplace of today's firefighters.

We know that we are constantly improving services in our communities and that the public is aware of this. Several people have referred to the support that we enjoy in the community, and I've included for your information two Gallup polls that were done in Canada indicating the high level of support that firefighters enjoy in their community. We are extremely proud of that.

There is much that needs to be changed in the poorly drafted part IX of Bill 84 if Ontario fire and emergency services are going to continue to provide and improve on the excellent services to the citizens of Ontario. Due to time constraints, I will address only a few of those areas of concern.

"Managers etc," subsections 58(1) through (5): This ambiguous and punitive language essentially allows for the decimation of the team effort that is so effective at all emergencies. The team concept is what makes today's fire department so able to evolve and function efficiently.

In recent years many North American companies saw fit to emulate the Japanese team approach to progressive management. They recognized that the team approach rather than the "bosses" and the "workers" was what produced the most effective results. The team approach is what has allowed the fire and emergency services in the province of Ontario to evolve into the excellent service provider that it is, and that team approach is what will allow it to continue to improve.



If Bill 84 passes without extensive amendments to part IX, municipalities in their haste to decimate the number of members in the association will divide the team and catastrophically affect public and firefighter safety.

How does the team concept function now? The saving of lives and property often necessitates that decisions at emergencies be made quickly. Officers must trust the firefighters' training and ability and firefighters must trust the decisions made by their officers. Platoon chiefs, district chiefs, captains and firefighters train together in all aspects of emergencies. Each understands the others' roles and responsibilities at every kind of emergency. Each understands that at an emergency, their training and actions affect the lives and safety of the public and, indeed, their own lives.

Following every significant emergency, all of the officers and all of the firefighters review together what was successful and what changes might improve their operation at this particular type of emergency in the future. This information is then used to revise training methods and department policies so that the emergency service continues to evolve and improve.

We have had for decades a system that works well, a system that continues to build and improve on itself through training, application and review so that lives and property are better protected and firefighters are at less risk of injury and death. Therefore, what possible rationale could exist for trying to fix what is not broken?

The managerial exclusions portion of Bill 84 will create a division in staff at emergencies. This will directly affect, possibly with deadly results, the present team approach. Municipalities, in their haste to designate everyone who decides anything a "manager," will be on the road to two groups or more operating at emergencies. Changes will be subtle, not apparent at first, but the cracks will begin to develop. The "them and us," the two or more teams, the lack of feedback for improvement in operations and the implicit trust now learned and cherished by those combating time and elements at emergencies will slowly erode, to the detriment of the public and those who presently serve them as a team.

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I'd like to turn your attention to another subject now, and that is the subject of municipalities and what they say and what they do, and I think you'll find there's a difference.

For approximately two decades, the Association of Municipalities of Ontario has been proposing more managerial exclusions from the firefighters association. This has been one of the key issues for them at the Fire Services Review Committee chaired by Bernie Moyle, the Ontario fire marshal. Their proposals have been very much along the lines of 58(5), whereby a designated number, depending on the size of the department, was contemplated.

The second completely brand-new section in this bill, 58(1) to (4), puts the onus on the association at the labour board to prove they are not managers. This is contrary to the premise that the responsibility should be on the employer to demonstrate that they are indeed required managers with the necessity to be separate from

those they supervise and work with in emergencies. This "reverse onus" provision will have serious detrimental effects, in that time and funds will have to be expended by fire departments and associations rather than working to improve emergency services.

During the past two decades, while this proposal has been on AMO's list of changes to the Fire Departments Act, the following changes in managing fire departments have occurred across virtually all urban fire departments: The two managers within the fire department, the fire chief and deputy chief, have seen the following responsibilities previously performed by them moved entirely or largely to city hall and other departments. I'll give you some examples.

The management structure of municipalities has changed from the situation whereby the fire chief and deputy interacted directly with mayor and councillors. The chief and deputy are now relegated to interacting with commissioners and city managers, and many of their managerial responsibilities have been removed largely or entirely to other departments in the municipality.

**Hiring:** The hiring of new personnel is done in a cooperative fashion with the human relations department and often an outside testing agency. Most departments' plans for the future are shifting to central hiring, serving several departments and employing outside agencies and city hall staff to test and interview.

**Budget preparation:** This function is performed at city hall with fire department input and management committees reviewing all data and presenting a final package to the council where the chief may not even be in attendance. Purchasing has become centralized.

I turn your attention to the discipline of staff. This is a key element of the proposal by AMO to have more managers. In today's fire department decisions regarding hiring, firing and promotions are carried out by the chief and the deputy in concert with city hall staff. Members of the association, platoon chiefs, district chiefs and captains presently perform duties such as personnel assessments, absenteeism review, initial discipline and station and platoon supervision. The trend is towards more decisions regarding severe discipline being made by the legal department at city hall, often in conjunction with outside legal advice.

Thus, while AMO for two decades has been repeating its proposal for more managers at the fire department, the reality is that the managerial functions have largely moved to or are shared with other departments at city hall.

In Ontario — and I've provided a list for you — there are 21 fire departments, and I'd ask you to add one to that list. I'm informed today that Thorold should be added, because the Thorold fire department has no deputy. Deep River, Etobicoke, Hawkesbury, Innisfil, Kanata, Lindsay, Milton, Mississauga, Niagara Falls, Peterborough, Port Colborne, Sarnia, Stoney Creek, Timmins, Toronto, Valley East, Wallaceburg, Welland, Whitby, Woodstock, York, and I've asked you to add Thorold, about 20 of those departments, or 19 of them, have no deputy chief at all and will not be having a deputy chief, and several of those other departments, particularly the larger ones, have gone for long periods of



time without a chief or a deputy in place. I suppose that's for financial reasons.

Many of the chiefs who have sat before you in these chairs, at the bidding of AMO, I'm sure, and have asked for additional exclusions could double the number of exclusions in their departments simply by having a deputy chief — people who sat here today and asked you for additional exclusions.

Compare this list of specific managerial duties now done at city hall and municipalities not even filling vacancies for roughly 25% of the full-time fire departments in this province to the rhetoric from the chiefs and AMO about the need for more managers, to perform what duties we are yet to hear, without any specifics. So I ask you to look at what they do, not what they say.

We have also attached a survey of other provinces which clearly indicates that managerial exclusions across Canada are the same as they presently are in Ontario. Even in Alberta, where provision is made for additional exclusions, the onus is on the employer to negotiate or provide evidence to the labour board of the need for additional managers.

The proposal by the Association of Municipalities of Ontario, which is included in Bill 84, is not supported by the management trend in municipalities, the present and growing practice of not even requiring two managers, the absolute necessity of having a team approach at emergencies rather than a divided effort, and comparisons to other provincial legislation on the same subject.

I ask you to please not let this happen. Refer these two sections back for review, the managerial exclusions: 58(5), allowing for specific numbers based on the size of department, and 58(1) through (4), which allows anyone who manages anything to be excluded.

Two other provisions in Bill 84 will lead to reduced services for Ontario citizens. The provisions allowing municipalities to privatize and hire part-time employees will lead to fire and emergency services having substandard equipment and employing McFiremen, with no career or community commitment.

Imagine for a moment your family trapped in your automobile on a major highway. A modern rescue unit with modern extrication equipment and four career firefighters who train daily and operate as a team are on the way. They bring with them career dedication and pride and are directly accountable to municipal authorities on a daily basis for the service that they provide.

Conversely, imagine another scenario whereby the Wackenhut low-bid, part-time McFiremen are en route. Their slightly out-of-repair rescue unit and their antiquated extrication tools are, of course, the result of the profit motive. After all, will the public really know the difference? These firemen look like the dedicated career type, the rescue truck is big and red and those trapped in an automobile do not know anything about the methodology and equipment they are counting on to rescue them. By the time those in the automobile realize that they are being provided with substandard training and equipment, it will be too late, with dire consequences.

It won't happen here? It happens on a regular basis in municipalities in the United States, where fire, emergency and EMS services have been contracted out by elected

representatives desperate to balance budgets with low-bid proposals.

I thank you for your time and attention, and I implore you to rethink the impact that section IX will have on the citizens of Ontario and the firefighters who serve those communities.

**The Chair:** Thank you very much, Mr Hastings, for sharing your expertise with the committee here today. The time for your presentation has elapsed.

1650

#### BRANTFORD PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** The Brantford Professional Fire Fighters Association, Mr Edward Glover and Norman Booth. Good afternoon, gentlemen.

**Mr Edward Glover:** Honourable Chair and members of the standing committee on administration of justice, I, Edward Glover, president of the Brantford Professional Fire Fighters Association, thank you on behalf of the members of the Brantford Professional Fire Fighters Association for allowing me to make this presentation to your committee.

As I stated, my name is Edward Glover and I've been a firefighter in the city of Brantford for 14 years. Sitting beside me is Norman Booth, who is secretary of our association and has been in the firefighting profession for 20 years. We are here today to discuss Bill 84, the Fire Protection and Prevention Act.

All firefighters endorse that there are some positive aspects to this bill. The areas dealing with mandatory fire education help to ensure that municipalities put some effect into letting the public know about fire safety. Bill 84 enhances the fire marshal's ability to order unsafe buildings closed. Bill 84 enhances the ability of fire chiefs to delegate their authority to other fire department personnel. Bill 84 also states that fire prevention will be a mandatory function of the fire department.

However, nowhere in this bill does it refer to fire suppression activities or other emergency functions presently performed by firefighters as being mandatory. Fighting fires is only part of our job. The public has become accustomed to firefighters also performing non-fire-related emergencies such as auto extrication, medical emergencies, hazardous material response, ice water rescue and fire-prevention-related duties. These non-fire-related emergencies account for 60% of our responses.

I would also like to touch on four other areas of concern at this time. They are (1) privatization, (2) part-time employees, (3) the establishment of bargaining rights by certification and (4) management exclusions.

The first issue of concern is privatization. This bill leaves the door wide open to, and we believe encourages, privatization of fire departments. The definition of "employer" in part IX, subsection 41(1) of the act need only be examined. This is done not with public safety in mind, but with the clear intention to cut costs at any cost, up to and including the lives of the public.

I can confidently say that if privatization of a fire department takes place, the automatic aid to surrounding areas would be non-existent, because the bottom line

would take precedence. Also, a certain amount of accountability to the public may be lost.

Under the current system the public have the right to lodge complaints or concerns to their municipal councillors, who would endeavour to resolve the issues and retain the highest level of service to their citizens. Do you think a private company would act upon concerns if it meant affecting the profitability of the firefighting services? To this, we add that there are numerous horror stories from the States. Municipalities are returning to full-time professional fire services.

We ask this government to reject any notion of privatization and bring forth wording to the act to discourage municipalities from any such consideration.

Next we would like to talk about part-time employees. In the definition of "firefighter" in part IX, subsection 41(1) of the act, the word "full-time" that was in the Fire Departments Act has been removed. In the fire service, experience and teamwork are not only important but essential.

One factor in the emergency situation that will never change, in my opinion, is the teamwork and mutual trust developed between firefighters that is needed to operate effectively and safely. The introduction of part-time firefighters will severely affect the ability of firefighters to operate as a unit. We do not have the time or luxury of second-guessing our partners.

I would now like Norm to read a segment of a letter from Mr John Bonfield of Brantford, who writes:

**Mr Norman Booth:** "There are those today who argue for a return to a volunteer fire service 'to reduce the cost.' We cannot return to a volunteer system for the following reasons:

"Employers today can offer no job security and would discriminate against a firefighter applicant because of time lost to the company for every fire. Hence volunteers would have to be self-employed and would be paying themselves to put out fires!

"Towns are not compact today but are surrounded by sprawling suburbs and industrial parks. How could volunteers get to the station quickly? Probably by driving too fast.

"Let us keep the system exactly the way it is. Forget Bill 84 which may encourage misinformed cost-cutting, increase the response time of the service and reduce our firefighters...."

**Mr Glover:** I would now like Norm to read a letter from Mr Gordon Smith, the superintendent of Slovak Village, an apartment complex in Brantford, who writes:

**Mr Booth:** "It has come to our attention that you intend to cut the services that we require as to our safety and wellbeing. You might not think that way if you were here on the night of March 9, 1996 when we were awakened at 1 am to the rumble of an explosion that ripped a big hole in the side of our building. What a nightmare to see smoke billowing out the wall and flames shooting 20 feet in the air. If it wasn't for the speed and accuracy of the firemen that we count on, we might have lost a lot more than we can imagine. By some small miracle no one was injured and not a life was lost, due to the fact that the fire department had competent firefighters here to aid in the speedy evacuation of the tenants of

Slovak Village Brantford. Just think of the dilemma we would have been in, (where seconds count and the speed and accuracy of well-trained firemen are what matters, between you and the death of friends and loved ones).

"Not only do the firemen do a remarkable job at fighting fires and saving lives, they also help in many other ways, eg, when people are trapped on elevators, at an emergency car accident, and when someone falls into a swollen river and is trapped. You people whose responsibility it is to pass this bill or to deny it can sit behind a desk and make decisions to change things. But have you ever put your life on the line for a perfect stranger that you have never met, knowing that without the training that you have, this might be the last day of your life?"

"This complex houses 150 families of all walks of life, and speaking on behalf of all the residents here, I would like to thank the firefighters of Brantford for all their help during our crises. We pray to God that they will be here for us if the need were to arise again. For next time we might not be so fortunate.

"Please for all conscience, think of us and reconsider your decision and say no to Bill 84.

"Sincerely yours: Gordon Smith (Superintendent)  
"Slovak Village Brantford"

**Mr Glover:** I would now like Norm to read a third letter from a concerned citizen of Brantford, Iris Churchward, who writes:

**Mr Booth:** "To whom it should concern: Re: Bill 84

"Have you forgotten the truthful saying 'You can't take it with you'?"

"Why are government officials putting lives at stake to grab for the almighty dollar? You might (though I doubt it) have balanced budgets at the end of the year or your term in office, but how many lives have you put at risk in order to obtain this?"

"In Brantford alone in 1981 we had a population of 74,336 with 111 professional firefighters; in 1996 the population is 82,001 with 99 professional firefighters. This probably includes office staff on the firefighters' listings, not just brave men who actually go out on calls. Both the north end of our city and the south have grown — you can see for yourself that the population has increased. Then why are you even considering for a moment downsizing the fire departments?"

"Kitchener alone, that I know of, intends in the next four years to relocate or restructure their fire stations so that their response time will be four minutes — the most critical time for any fire. Why are the other centres in Ontario throwing caution to the winds?"

"We must have men trained in firefighting — it takes four years in most instances. They need teamwork — a man they can depend upon to act with instant rapport. This comes only with team training, not sticking some unknown man at your side, whether he is well-trained or not. He will not be your buddy.

"If you think for one minute that fire safety talks to school children etc are going to stop fires, God help you. I hope you don't experience a fire, nor any of your loved ones. Have you heard of lightning? Poor wiring? Arson? Children playing with matches or lighters etc? It will still be a fact of life or death.



"Our men not only give safety talks and respond to auto accidents with the jaws of life, but medical emergencies, high-angle rescues (even cute kittens up trees), hazardous materials spills, ice water rescues, gas leaks and explosions, broken power lines, confined space entries, and the list goes on!

"We need to build up the professional firefighters, not diminish their numbers. The laws of Canada and Ontario especially should have the firemen as well as policemen listed as mandatory services for the percentage of population.

"Seniors are very upset about Bill 84. I can speak with more than one voice, for at present my positions include vice-president of a local seniors' club, secretary of the Brantford Presidents' Club and secretary of zone 3 of the United Senior Citizens of Ontario.

"I'm not rich, but if my taxes must be raised to save a life, then as I stated at the beginning, I know that I 'can't take it with me.' Much better we all pay taxes for professional firefighters than pay out for privatization and increased fire insurance.

"Sincerely

"Iris K. Churchward"

**Mr Glover:** Each of these letters stresses the need for full-time firefighters as it relates to teamwork and experience. This is why we encourage this government to re-establish the full-time provision in the definition of "firefighter" and remove any consideration to part-time employees.

Along with the terms "teamwork" and "experience," we must not forget "speed." Full-time professional settings provide for the speed needed to arrive at an emergency in the minimal amount of time to assess and act on the problem with optimal results. No one can deny this statement. We do our job in a professional, courteous, efficient and effective manner. Is this not what this government wants?

1700

Part-time employees would in essence make the departments less effective, being called in when only needed. That means it is already too late. Racing through the streets in their private vehicles to get to the emergency endangers people's lives as these employees rush to their part-time job. This also delays response times for an appropriate complement of personnel to perform the tasks in an effective manner. This is part of risk management. We say there should be no risk to the public and no risk to firefighters who put their lives on the line without question every time we respond to an emergency.

We know that in the county of Brant there is a proposal to restructure the county fire departments and eliminate four fire stations. People in the areas where their fire protection is lost have been told to expect their insurance costs to go up a minimum of 60% to 100%. The response times from neighbouring stations will increase and therefore the fire loss would be higher and a greater risk. Is the closing of these fire departments a result of Bill 84 with respect to mandatory fire prevention and public education aspects in the bill?

The next point of concern is the labour relations language that has been added to part IX of the act. Bill 84 includes clauses that would allow the existing

firefighter associations to be replaced with traditional unions. Firefighters' associations have been responsible and reliable advocates for firefighters, providing uninterrupted service to the people of Ontario for over 75 years. Why change now? The police associations operate under the same processes of bargaining, so why wasn't this sort of legislation wording added to Bill 105?

The management exclusion issue is one we feel will disrupt the teamwork aspect of the job. Everyone from the incident commander to the persons performing the tasks at the emergency must work together. Again, if that trust is lost, for whatever reason, safety of the public or the firefighter will be jeopardized. However, if this government persists in creating management teams through exclusions, we would ask that you follow the lead of Provincial Federation of Ontario Fire Fighters President Bruce Carpenter and Ontario Professional Fire Fighters Association President Jim Lee to have a set number of exclusions, not the open-ended wording now present in this bill.

In closing, we again thank this committee for allowing us to make this presentation. If this government is listening and is concerned, please listen to the men and women who put their lives on the line. Make the appropriate amendments to this legislation that will enhance public safety, not erode the present fire service that the people of Ontario demand.

**The Chair:** The time for your presentation has elapsed. I thank you on behalf of the committee.

JUDY TAYLOR

**The Chair:** The next presentation is Judy Taylor. Good afternoon, Ms Taylor. I understand you may be a constituent of mine.

**Ms Judy Taylor:** Yes, I am.

**The Chair:** Good. Please proceed.

**Ms Taylor:** Good afternoon, ladies and gentlemen. My name is Judy Taylor and I live in Cambridge. I wish to thank the members of the committee for allowing me the opportunity to speak at this public hearing. I am opposed to Bill 84 and I would like to tell you why.

Over the past three months I have written letters to Premier Mike Harris, Solicitor General Robert Runciman and to Cambridge MPP Gerry Martiniuk questioning the reason for Bill 84. I have asked all of these people how this proposed legislation might affect me. The answers that I received from Premier Harris and Solicitor General Robert Runciman both stated the same general message: Public safety is the highest priority. I cannot speculate in regard to MPP Martiniuk's views because he did not take the time to reply to my concerns.

Ladies and gentlemen, in my opinion, the safety of the public is not this government's highest priority. I live in Cambridge and have visited the fire department a number of times. It doesn't take an expert to tell that this department is top-notch. These individuals are well trained in areas such as auto extrication, hazardous material containment, specialized rescue, medical response and fire prevention. They don't just fight fires any more.

In less than four minutes you can expect a fully staffed team of highly trained firefighters using quality equip-

ment on modern apparatus to arrive at any situation. These people have worked and trained together to form a team where public safety is the highest priority. I am proud to expect this kind of service from my fire department, just as they are proud to provide it. During my visit to the fire department, I asked how Bill 84 would affect me. The outcome of the conversation scared me.

The proposed legislation, as I see it, carries with it two very distinct messages. On October 16, 1996, Solicitor General Robert Runciman said the long-awaited bill would allow for municipalities to provide all Ontarians with the best possible level of protection from fire in the most efficient manner. Mr Runciman spoke of mandatory fire prevention and public education by municipalities. He also spoke of the fire service being delivered by local governments with provincial government support. At first glance, this appeared to be a very good piece of legislation, until I read the other sections of the bill.

It appears to me the provincial government is trying to push through a two-sided bill without explaining the implications of the other side. The other side of the bill does not talk of saving lives and property, it doesn't talk of highly trained individuals using quality equipment and modern fire apparatus, and it sure doesn't say that the public safety is the highest priority. Instead, I feel it threatens to undermine the speed, experience and teamwork that save lives in an emergency: my life, your life, our family's lives, as well as our friends and neighbours. This proposed legislation will affect everyone in Ontario.

Bill 84 proposes significant changes in our fire protection legislation. Municipalities will have the right to hire part-time firefighters. Therefore, Bill 84 makes it easier for municipalities to understaff fire stations and emergency vehicles. In my opinion, it allows the municipality to lower the level of firefighters on duty at the station and it allows firefighters to be called in only after an emergency has taken place. This would greatly increase the response time and waste precious seconds. Those precious seconds might be the ones that you or I are wishing the firefighters don't take in rescuing us or our loved ones. When lives are on the line, any delay is not acceptable, no matter what the cost.

By lowering the standard of service provided by the firefighters, we can expect slower response times to fires, medical emergencies and accidents. Part-time firefighters with less training and experience will be asked to work alongside full-time individuals to try and work as a team. This scenario can only spell chaos for teamwork. The safety of the public is always the highest priority, but what about the safety of the firefighters in this situation? How can you expect all of these firefighters to react the same way? Their safety has to be considered as well.

Bill 84 allows municipalities to remove firefighters from the fire ground operations and put them into management positions. By removing firefighters from the fire ground, are we not removing the same individuals who are saving our lives and property? Why does the provincial government see the need for so many managers on the fire ground? Solicitor General Robert Runciman said there is a need to increase the number of managers in the fire service. Who needs more managers at an emergency situation when the people you need the most are the ones

climbing the ladders, dragging the hose, providing medical assistance to victims and returning the public to safety? It doesn't make sense.

1710

Under Bill 84, the municipalities have the right to privatize fire service. If a fire department were to be privatized, wouldn't the company that provided the service to the community want to make a profit? Who will guarantee the level of service that can be expected if a fire service were to become privately owned? Although any business can say they produce a quality product or service at an affordable price with the best customer service, businesses are all relying on profit. If a city such as Cambridge were to have an unusually high number of occurrences in a given year, what measures would the privatized fire service take to ensure a profit is made at the completion of the year? Would they take fire trucks out of service? Would they lay off full-time firefighters and replace them with part-time individuals who would hopefully perform the same task but receive only minimum wage?

What about the fire apparatus and equipment that remains in service? Will it be maintained to the same extent that it was prior to the privatization? Who will govern this? Will the province provide support for the fire service in this situation if it were to erode to such a poor state?

Their profession is all about saving lives. Response time from a fully staffed firehall is critical. The firefighters have told me what can happen even when the best of effort is given. They have explained to me the agony of seeing a burnt child or seeing a senior citizen die as a result of not getting there quickly enough. They have told me of their experiences of stumbling over an unconscious victim in the split-second life drama that is a residential fire. Try and explain to these people that Bill 84 is going to save money by ratcheting back the machinery that saves their lives. They have a difficult time understanding. I don't understand it either, and neither should anyone who ever hopes to have or has ever had a professional firefighter rescue their life or their property. Please amend Bill 84.

**Mr Kormos:** Thank you kindly. You canvassed all of the concerns.

The issue about the need for more management is one where we haven't heard yet an explanation of the wherefore and the why. We've heard persuasive comments from people who work as consultants in developing teams and structures who say that the mode is to get away from that vertical hierarchy and develop, I guess we could say, at a horizontal level. I know among police the one concern across the province is the growth of brass in contrast to the number of cops who are available to go out there and catch bad people.

We've heard comments like yours, and you've again made them very persuasively. We haven't heard any good justification for the need for more brass, especially when, as you heard Mr Hastings earlier point out, a big chunk of fire departments, including the one where I live down in Welland, haven't utilized their right to appoint a deputy chief in a good chunk of time now.

Your questions are pointed and beg a response, and we're waiting too. Thank you kindly.



**Mr Bisson:** Great presentation, but I guess it begs the following question because your plea at the end is for the government to make amendments to this bill. My question is simply this: If the government doesn't make substantive amendments to Bill 84, let's say, around the definition of firefighters, including fire suppression in section 2(1)(a) or either the elimination of or major amendments to section 9, what does that say about the government and about this whole process of public consultation through committee?

**Ms Taylor:** To me?

**Mr Bisson:** Yes. What does it say about the government?

**Ms Taylor:** They're just paying lip-service. I'm here as a lip-service. All these people who have made presentations to the government haven't meant a thing. It's just been a waste of time and they're just paying lip-service.

**Mrs Ross:** Ms Taylor, thank you for your presentation. Every committee that I've sat on, I can tell you from experience that every bill I've sat on has been amended, based on some of the things we've heard at committee. So I would say probably there will be some amendments put forward. At least I hope so.

**Ms Taylor:** I hope your track record remains intact.

**Mrs Ross:** Can I ask you about the comment you made about the fact that this bill allows municipalities the right to hire part-time? Municipalities already — for example, this bill makes it mandatory to ensure fire protection and education. That's not mandatory up to this point in time. There are some firefighters out there who are volunteers who work extremely well.

**Ms Taylor:** My son is one of them.

**Mrs Ross:** Can you just comment on that, please.

**Ms Taylor:** My son is a volunteer firefighter, but a volunteer does not take the place of a full-time firefighter. They don't have the same training. They don't have the same skill level because they don't spend all of their time doing it. You just can't. It's impossible. No matter how dedicated you are, you're never going to be as trained as a full-time firefighter.

**The Chair:** Thank you, Ms Ross. If we could move on.

**Ms Taylor:** It's Taylor.

**Mr Bisson:** The constituent's name is Taylor.

**The Chair:** I was talking to the MPP, sir.

**Mr Bisson:** Oh, I'm sorry.

**Mr Ramsay:** Thank you, Ms Taylor, for your presentation. Boy, I hope you're not right after all the effort we've done and the travelling we've done and people like you and the effort you've made. Some of the government members have said there are going to be some amendments coming. Some have said they welcome seeing the

opposition ones. I guess we'll have to see on Monday and Tuesday afternoon whether this is for real, because there certainly will be some substantive amendments on the table. The opposition will see to that.

I've been asking if the government had any amendments in the works. We don't have any answers yet and I guess by around noon on Monday they'll have to submit those, so we'll see then.

It's a long day today and we've heard a lot of people talk about how great the fire service is. I would have to ask: I wonder if we actually have it right today. It seems to work. I wonder if we just have this one government service — with all the complaints people have about how government works, maybe this one works. Maybe we've got it right. I don't know. What do you think?

*Interruption.*

**Mr Bisson:** It's okay. You're allowed. It's the last presentation.

**Ms Taylor:** I think the fire departments, the way they're set up at the moment, seem to work efficiently and you don't get many complaints about the way firefighting is done. I don't see the necessity for changing something when it works really well. There are other ways in other areas of government where you can save money, but I don't think firefighting should be one of them.

**Mr Ramsay:** So as a taxpayer you think you're getting good value for the fire service?

**Ms Taylor:** Firefighting? I think I'm getting excellent value for my money.

**The Chair:** Thank you, Ms Taylor, for your presentation here today. Mr Kormos.

**Mr Kormos:** I have a question. The committee has been sitting for two weeks, and I should say this for the benefit of the people here too: Government members, and I give them credit for this, and the parliamentary assistant have been listening and I know they have voiced to me an interest in what's been being said. Can we have assurances that these people will not be punished or whipped into shape for appearing to be receptive to the submissions that are being made, be it committee members or Mr Carr?

**Mr Ramsay:** What he's saying is, free Frank Klees. Free them all. Free Ron Johnson.

*Interjections.*

**Mr Kormos:** Chair, look, I've been there, done that. I'm concerned about how these people might be whipped into shape.

**The Chair:** I'm sorry, you've lost me, Mr Kormos. Is this a point of order? In any event, it's a very interesting comment, but we are adjourning this hearing to 10:15 in Windsor tomorrow morning.

*The committee adjourned at 1720.*











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Mr Trevor Pettit (Hamilton Mountain PC)  
Mrs Lilian Ross (Hamilton West / -Ouest PC)

**Also taking part / Autres participants et participantes:**  
Mr David Christopherson (Hamilton Centre / -Centre ND)  
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Mr Norman Booth	
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## Legislative Assembly of Ontario

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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

## Official Report of Debates (Hansard)

Wednesday 16 April 1997

## Journal des débats (Hansard)

Mercredi 16 avril 1997

### Standing committee on administration of justice

Fire Protection and  
Prevention Act, 1996

### Comité permanent de l'administration de la justice

Loi de 1996 sur la prévention  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Wednesday 16 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mercredi 16 avril 1997

*The committee met at 1016 in the Windsor Hilton Hotel.*

FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen and members of the committee. This is a continuation of the standing committee on the administration of justice, consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services.

The committee welcomes Dwight Duncan, MPP for Windsor-Walkerville, and Sandra Pupatello, MPP for Windsor-Sandwich.

Our first presenter will proceed, but I understand Mr Kormos has a point of order.

**Mr Peter Kormos (Welland-Thorold):** We're pleased to be in Ms Pupatello's and Mr Duncan's bailiwick. So is Wayne Lessard, who is with us today, who was our colleague from 1990 to 1995, and — who knows? — we anticipate once again.

On the point of order, Chair, I note that the committee met for four days last week receiving public input. This is the third and final day of public input here in Windsor. We were in Kingston on Monday and then Hamilton-Niagara on Tuesday.

I note that the parliamentary assistant, Gary Carr, who was with us through those hearings — the parliamentary assistant's job is to carry this bill through the Legislature and to advise the minister as to appropriate changes that might be made in response to the public input. That's the committee process and that's what democracy is all about. That's why people prepare their submissions and analyse this legislation, along with other bills, and provide input to the committee.

Quite frankly Gary Carr, as the parliamentary assistant, in my view was performing an exemplary job. He was responsive to the presenters, he was evenhanded, fair and balanced in his assessment of them and he appeared to be particularly sympathetic to the views being expressed by citizenry and firefighters across the province.

Of course, as the newspapers indicate, he has been fired midterm, midway through this process, which is a most unusual thing to happen in view of the fact that this is the final day of public hearings. With great respect for Bob Wood, the new parliamentary assistant, and I congratulate him on acquiring that position — he has not had the opportunity — one question of course is whether Mr Carr was fired because he was being responsive to the submissions being made. I'll leave that to others, because it's mere speculation, of course, notwithstanding that it's somewhat irresistible by way of a conclusion.

Noting that Mr Wood however has not had the same opportunity as Mr Carr to be as intensively involved and to listen to all the submissions, with respect for Mr Wood's new responsibilities, I suggest, and will make an appropriate motion, that after today's hearings clause-by-clause be deferred for a period of three weeks, rather than resuming on Monday, April 21, so that Mr Wood can thoroughly analyse and digest all the submissions that have been made.

I'm not sure that the Hansard of any of these hearings is even available yet, and if it is, it's only available for the first one or two. It's imperative that Mr Wood be given an opportunity to at least read Hansard. We wouldn't expect anything less of him. A mere viva voce briefing is not sufficient because it doesn't bring with it all of the content and all of the nuances, and is subject to interpretation by the person doing the briefing. If this process is going to retain any dignity or any credibility, it's imperative that this committee defer clause-by-clause for a period of three weeks to give Mr Wood that opportunity. As I say, I'm not suggesting that his capacity to read the Hansard is limited by any stretch of the imagination, but the Hansard simply isn't available and won't be available yet for some time.

In view of this extraordinary event, the firing of a parliamentary assistant who is sympathetic to the community and to firefighters, and the assumption of his role by a new parliamentary assistant, I move that clause-by-clause consideration be deferred for a period of three weeks.

**Mr Dwight Duncan (Windsor-Walkerville):** The official opposition supports that as well. The role of the parliamentary assistant indeed is to hear delegations and report to the minister on what those delegations have said. Mr Wood has just joined us today and has a daunting task ahead of him. It would be the view of the official opposition that in order that these hearings are meaningful, and if the government is serious about listening to what people say and not acting in a dictatorial fashion, as a number of members of the government said yesterday in response to the moves the Premier made,

that clause-by-clause consideration ought to be delayed in order to allow the parliamentary assistant the opportunity to review what has been said throughout these hearings.

Second, it will demonstrate very clearly whether the government is in fact listening or prepared to listen or whether these hearings are simply a charade. It's our view that in order to allow the parliamentary assistant time and to allow the views that have been expressed throughout these hearings, clause-by-clause ought to be delayed to allow for a complete review of everything by the parliamentary assistant so that the government can be briefed by the parliamentary assistant.

**Mr Gilles Bisson (Cochrane South):** I want to support the motion by my colleague Mr Kormos from Welland-Thorold. I'm not going to repeat in detail what he said, but essentially what Mr Kormos puts forward is quite important, I think, for the committee to ponder, and hopefully the government side of the committee will support it.

What's really clear here and what people need to understand is the process by which the committee deliberates over a bill. One of the people who plays a very important role in passing a bill and dealing with a bill is the parliamentary assistant. As Mr Kormos said, with deference to Mr Wood, he walks into this thing at the end. Today is the last day of public hearings on the road. We have heard submissions in northern Ontario, in southeastern Ontario, in Toronto and now in Windsor. Mr Wood, unfortunately, has not had the opportunity to listen to what people have had to say on both sides of the issue. If we were to try at this point to have the Solicitor General's office deal effectively and in fairness with the amendments that need to be put forward to this bill, I think it would be fairly difficult for Mr Wood to be able to do that in any kind of fair-handed way given that he hasn't had the opportunity to listen to what people have to say.

The point that Mr Kormos makes I think needs to be repeated. We know what's going to happen: The parliamentary assistant is going to be briefed by political staff of the Solicitor General.

**Mr Kormos:** Or by the Premier.

**Mr Bisson:** Or by the Premier. Oh, boy, that could be even scarier. The point is that the political staff of the Solicitor General, who is working for the Solicitor General who wants this bill in its present form, in my view is going to try to brief the parliamentary assistant in a way that would favour the views of the Solicitor General, which would include keeping in part IX of the bill, which is a very controversial part of this legislation. I imagine the Solicitor General, from the discussions I've heard through the media, in the House and on the committee, would not be willing to make changes to the definition of "firefighter," all of which are issues I think we've heard numerous testimony on to deal with why we need to make changes.

We could be here trying to ask for the committee hearings to start all over again. We want to appear as being reasonable, although that is something that I would favour, but at the very least what we need to have is an opportunity for Mr Wood, the parliamentary assistant to the Solicitor General, to take a look at that, free from

being vetted through some political staff of the Solicitor General. If the parliamentary assistant has questions, he can pick up the phone and call firefighters and others who have presented, and also, very importantly, to give these people an opportunity to meet with Mr Wood over the two- or three-week period, to let him know on both sides of the issue how they feel and why they think it's important that amendments be made.

The last point I make is this: Government members on this committee have said in northern Ontario, in the southeast and again up in this end that they are sympathetic to the causes and issues that firefighters and others have raised in opposition to this bill. In fact, we've heard from some, as Mr Johnson, the Vice-Chair of this committee mentioned, that they actually have problems.

*Interjection.*

**Mr Bisson:** Is he former Vice-Chair? Don't tell me you got fired too? Seriously?

**Mr Kormos:** Another sympathetic Tory.

**Mr Bisson:** Hang on a second. Chair, is there a pattern developing here? Could it be that those government members who are actually trying to do their jobs are being fired by the Premier because they actually dare to speak out on behalf of the citizens of this province?

That'll be for another debate, but the point I get to is that the government members have said on a number of occasions, and Mr Johnson is one, that they are sympathetic to some of the issues that have been raised at this committee. To give this process an opportunity to work so that in fact the bill reflects what people have said I think would be very difficult to happen without giving the opportunity to Mr Wood to listen to some of the submissions through what the members of the government on the committee have heard, because I think they can play a useful role as well. I know they are honourable members and they would give, I think, a fair assessment of what they heard here in committee, especially from people like Mr Johnson, in order to give Mr Wood the opportunity to come up to snuff.

If the government doesn't accept this motion, I think it'll just describe in a very real way that this whole process actually is a farce if we don't go through that. I would ask government members to support this motion. It's done in a friendly way. We could have asked for the hearings to start all over again; we're not. We're saying give it three weeks, take your job seriously, brief your parliamentary assistant, let him know what you have heard so that he then could be part of this process and be able to do the job that needs to be done on the amendments that need to be put forward.

**Mr Ron Johnson (Brantford):** Call the vote.

**The Chair:** Before we proceed, there seems to be some confusion in regard to who is properly a member of this committee today and whether substitution slips have been provided. I'm going to ask for a 10-minute adjournment — I apologize to members — until we determine that, and then we can reconvene and further consider the motion. We will be reconvening at 20 to 11.

*The committee recessed from 1028 to 1045.*

**The Chair:** Ladies and gentlemen and members of the committee, I would ask you to reconvene. We are presently considering a motion made by Mr Kormos to



reverse the decision of this committee that clause-by-clause would be held from 3:30 to 6 pm on Monday, April 21 and Tuesday, April 22, 1997. That has already been passed by this committee. Mr Kormos has requested that those two clause-by-clause days be deferred for three weeks, I believe. We've heard from Mr Kormos and Mr Bisson. Mr Klees, we're speaking to the motion.

**Mr Frank Klees (York-Mackenzie):** First of all, let me just say that I take exception as a member of this committee to the suggestion made by Mr Kormos that the removal or the changes that have taken place in assignments of responsibilities in our government have anything at all to do with individuals' views on a particular issue. That goes for Mr Carr and it also goes for Mr Johnson. There were, as we all know — anyone who's read the newspaper — many changes. In fact, most parliamentary assistants' roles were changed, mine being one of them. It has absolutely nothing to do, as the honourable members of this committee will know, with where an individual stands on a particular issue.

I also want to point out that I'm still here as a member of the committee and I think those who have been following these hearings know very well what my views are on this bill. Certainly my view is that it needs some amendments. We will be proposing some amendments based on submissions that have been made to this committee. In fact, members will know that I signed the petition that was brought forward by the firefighters and I stated that very clearly in a hearing in Toronto. Clearly there is room for improvement of this legislation. That's what this process is all about, that we go through a legislative hearing process so that all of us can have a role in ensuring that the final legislation is in its best possible form. That's why we're here.

I'd also like to remind the other members of this committee, and Mr Kormos and Mr Bisson know well, that the parliamentary assistant is one member of this committee, certainly with the responsibility for carriage of the bill, but all of us as members of this committee on the government side certainly have, I want to assure you, our influence and our opportunity for contribution to the discussions relating to any amendments. There are many of us here, in fact all of us, certainly from our caucus discussions, who agree that we have to improve this bill based on submissions that were made.

The fact that Mr Carr is no longer the parliamentary assistant doesn't in any way suggest that the work that's been done by this committee to this point, that the meetings that all of us have participated in at some length will not be considered.

I would say that I will certainly be voting in opposition to this motion. The reason is that I do not believe that the credibility of this process is at all interfered with as a result of the changes that have been referred to by Mr Kormos. I know that Mr Wood will make every effort to familiarize himself with the proceedings. We, as members of this committee on the government side, will be meeting with Mr Wood and certainly letting him know what our views are. I'm convinced that we can proceed with speed, with experience and with teamwork.

**The Chair:** May I say, we have three speakers: Mr Wood, Mr Kormos, Mr Bisson, and anyone else who might wish to speak to the matter. We have now delayed

the beginning of our hearings. I get very uncomfortable when we keep our guest presenters waiting for a considerable length of time and I would therefore ask that you either keep it very short or consider putting that particular motion off to the end of the day so that we don't keep them waiting.

1050

**Mr Bob Wood (London South):** I'll try to be very brief. I'd like to thank all members for their congratulations and their interest. I've had the opportunity to follow this from the start of the introduction of the bill and I think I do have a reasonable feel for what the various views are. I've had the opportunity to receive more detailed briefings in the last couple of days.

One thing I hope may be possible is to meet with the two firefighters' associations, and I would invite their representatives here to speak to me afterwards. We can set something up at noon today, later today, tomorrow or the first of next week, because I think I would like to get that direct input, although I've received it from the firefighters in London.

The motion itself I think is indeed premature. I'd like to get a little better feel for the information I need that I may not have, and certainly, while I could not support this motion today, if we reach next week and I feel I need more time, I will be the first to request that. I'd like to thank all members for their interest in this matter.

**Mr Kormos:** Chair, you've indicated you feel uncomfortable with this debate taking place at this point on this point of order and the motion —

**The Chair:** No, I don't mind the debate at all, Mr Kormos. We're keeping our guests waiting. That's the only thing I feel uncomfortable about.

**Mr Kormos:** I understand that, sir. Having said that, it's an unprecedented scenario for a parliamentary assistant to be fired at this point in the carriage of a bill. I feel very uncomfortable with the impression most of Ontario is getting that this bill is being driven from the Premier's office and not by this committee, not by the parliamentary assistant, not even by the Solicitor General.

I note Mr Wood's comments. I also note that no Hansard is currently available and will not begin to be available for several days yet. If the parliamentary assistant is going to fulfil his responsibilities to make recommendations to the minister, in this case the Solicitor General, so that the Solicitor General can carry them on into cabinet, it's imperative that the parliamentary assistant hear or have the opportunity to read each and every submission that's been made to this committee, not just by firefighters. Mr Wood, the new parliamentary assistant, indicates that he's prepared to meet with them. I endorse that and I encourage the firefighters to do that. But this committee has heard from a broad cross-section of the community across Ontario, from victims of tragedies in fires, from people in the medical professions, from people involved with emergency response, from experts in fire safety and general safety and from just plain folks.

The Chair will note that notwithstanding the request of the New Democrats, certainly supported by our colleagues the Liberals, and by a motion supported by the government members, this committee was refused the



opportunity to have its hearings in the Amethyst Room so that they could have been televised for the first two days of committee hearings in Toronto.

I appreciate Mr Wood's efforts to bring himself up to speed at the earliest opportunity, but I suggest that a half-baked exercise in that regard would do all of the participants in this hearing a great disservice; not the committee members but the public who have gone to great lengths, great expense, have exhausted a great deal of energy to analyse this bill and to bring their views to this committee.

As to Mr Klees, I appreciate his attempt to add some spin to this. Unfortunately, his colleagues in his caucus who were fired, Mr Carr among them, present, I put to you, a far more credible and reliable view. Toni Skarica, parliamentary assistant to the Minister of Education, fired yesterday afternoon, had this to say: "Anyone who spoke out has been canned."

**The Chair:** You're not speaking to the motion, Mr Kormos. We're dealing with Mr Carr's removal. That's the point you're making, and I'd ask you to discuss your motion and not Mr Skarica's views.

**Mr Kormos:** Mr Klees was given the opportunity to leave the impression that this is a normal turn of events. I'm suggesting to you, sir, that it's an abnormal, exceptional turn of events and it's one that impacts very much on the integrity of the committee process. When a parliamentary assistant who's been fired says that MPPs, backbenchers, ministers have no say, I say that's of some great concern. When Gary Carr, who was fired yesterday, says, "Mike Harris has got to realize this is still a democracy, not a dictatorship," I say that's relevant to what has happened in this most unprecedented way over the course of the last 18 hours.

I thought I was very generous in merely moving that there be a three-week deferral of clause-by-clause consideration. Quite frankly, it was a relatively conservative proposition, a modest proposal, if you will, and one unique or, perhaps over the last shy of two years, commonsensical. I'm not suggesting that the committee be suspended. I'm suggesting that Mr Wood is very capable of bringing himself up to date on the submissions, but I'm suggesting that the dismissal of Mr Carr and the firing of Mr Johnson were highly political and were in response to the views they have expressed on this committee. Mr Carr seems to have confirmed that in his comments to a variety of journalists yesterday and early this morning, and his position is upheld, as I say, by Toni Skarica and Bill Murdoch, who said, "Well, I can tell you two words for them," the government, "that you," the newspaper, "can't print," unfortunately. I suggest to you that more and more Ontarians are reflecting on the same two words with respect to this government.

I am submitting to you, sir, that for this committee process to retain any integrity that it might have had when it began, it's imperative that this not be regarded as a mere changing of the guard, as Mr Klees would have it. You don't change the guard in the middle of the process. It's never happened other than —

**Mr Klees:** Under Bob Rae it did.

**Mr Kormos:** No, it's never happened in the eight and a half years that I've been in the Legislature that a

parliamentary assistant has been dismissed midway. If it were a mere changing of the guard, Mr Carr would have been permitted to carry on with this bill and then Mr Carr would have been relieved of the onerous responsibilities of parliamentary assistant. That isn't the case.

There's something very peculiar here, very unsettling, very frightening, quite frankly. I think this committee owes the public a three-week deferral of clause-by-clause to accommodate Mr Wood and to ensure that the parliamentary assistant's advice to the Solicitor General is based not only on the advice from his colleagues on committee, not only the advice from the political staff, the minions that the government sends out here to help keep its caucus members in line, but based on the actual evidence that's been heard by this committee in Toronto, in Thunder Bay, in Sudbury, in Hamilton-Niagara, in Kingston, and now that Mr Wood is here of course he can hear for himself what the people of Windsor and Windsor area have to say.

I reject the proposition of Mr Klees. It's unreasonable.

**Mr David Ramsay (Timiskaming):** As always.

**Mr Kormos:** It simply is out of sync with what Mr Carr, Mr Skarica and Mr Murdoch have had to say about the spectre of dictatorship, the spectre of abdication and abandonment of democracy and the spectre of these dismissals — and in this case, we're talking about Mr Carr — being oh so very politically motivated by a government that has less and less regard for democratic process, if it ever had any.

*Applause.*

**The Chair:** It's hard enough for me to listen to the debates without having demonstrations in the audience. I should tell you that under the standing orders, demonstrations, either approval or disapproval, are not permitted from the audience. Mr Bisson.

1100

**Mr Bisson:** I'm going to come right to the point. The parliamentary assistant, in his response just a few seconds ago — and I had an opportunity to listen to his press conference — said, basically, "I've had an opportunity to follow this bill as a member living in London," and is trying to make us believe as committee members, but more importantly, trying to make the public believe, that you, as a new parliamentary assistant, following this bill in the city of London, are up to date with what every presenter had to say about this bill. I find that unacceptable.

I am a member from Cochrane South. The only way I find out what people have to say about a bill is by being on the committee. You don't find out through the filters of political staff or the filters of the media, because that is only part of the story. You don't get the full read of what people had to say and what they were getting at. So I find that very odd.

The second point I would have to make is that he responded in the television interview a little while ago that he thought this was a fundamentally sound bill and that no major amendments have to be put forward with this bill because in fact this is a good bill. Well, I'm sorry, but for the last two weeks I've been on this committee, that is not what I've heard people presenting to this committee say. They say there are major problems



with this bill, that there need to be major amendments to this bill, and in fact some have suggested the whole of part IX needs to be withdrawn.

In fact, Mr Wood, you're out of sync with the committee members. Your own government side has said there need to be some amendments to this bill. I think that demonstrates to me that the parliamentary assistant needs some time to sit down with the government members — and I notice that you just told him something very quickly, Mr Klees, and I would have done the same — but I think it demonstrates far too well that the government members need to sit down, along with the opposition members, with Mr Wood, and bring him up to date with what people had to say. This is a democracy.

To the point of the parliamentary assistant being fired and why we're asking for the three weeks, I think the Windsor Star says it all. The headline says, "Premier is a Dictator, Tory Dissenters Say." That evokes to me the comment that is being made through the paper, that the Premier is trying to control, with the Solicitor General, the outcome of these public hearings.

More to the point, as MPPs, members of provincial Parliament for all of our various constituents, we go to the polls every four to five years, and we are elected to represent our constituents and the broader constituents of the province of Ontario when we're on these committees. It is our responsibility to make sure that we listen to what people have to say and try to get into our laws that we pass through the Legislature a reflection of what we have heard. When I see comments such as this, this is pretty serious; the Premier being called a dictator by his own former parliamentary assistant for this bill. I think that says something about where we find ourselves.

The government members opposite are honourable members and I know they want to give this bill a fair hearing. They want to pay respect to the presenters who have presented to this bill. I urge them strongly to support our motion in order to give this bill some time before it goes to committee of the whole so we can introduce amendments.

We could have come to this committee and said, "We want public hearings to start all over again." If I had been a government member on that side, I would have dismissed that motion, because you would have read that into being: "You're just trying to stall this process for the sake of stalling it." We're saying, no, Hansard has done their job. They've recorded what's been said, and the members of the committee, government and opposition together, have heard what was put into Hansard by the people themselves. We have a responsibility as members of the Legislature of this province to bring Mr Wood up to speed. I go back again: When the parliamentary assistant says in a TV interview, "I've had an opportunity to look at this sitting in London, and I think this bill is fundamentally okay and there don't need to be major amendments," that tells me the parliamentary assistant in fact does not know what's going on with this bill.

The last point I make is simply this: I watched with great interest, as the members were caucused around the other side talking about this issue, the paid political staffer for the Solicitor General, the eyes, ears and mouthpiece of the minister, running from the telephone

to give the members of the caucus some instructions, I presume, and all of a sudden the government members come back and say, "We don't need to extend it." I think that demonstrates to me that this is a political process when it is should not be. In fact, if the government members do not support this motion, I would say, in all seriousness, it sounds to me like the hand of the Premier has not only found a way to get rid of certain people who might be supportive of what they heard on committee but is influencing members of this committee, which I find objectionable. Committees are there to do a job, and that is to listen to the people and to make amendments on what we've heard.

I urge you to support this motion on the basis of making sure that the people who have been heard get a fair hearing. If you don't, I think this whole process is a farce. Quite frankly, it will be for nothing and it will demonstrate that this government is not listening and is not serious about listening to the people of Ontario and that the headlines in the paper are true, that Mike Harris really is a dictator.

**Mr Ron Johnson:** Call the vote.

**The Chair:** Are there any other questions? I call the vote.

**Mr Kormos:** A recorded vote, please.

**The Chair:** Yes, that will be held. The motion is to extend the clause-by-clause dates by three weeks.

All those in favour of the motion?

#### Ayes

Bisson, Duncan, Kormos, Papatello, Ramsay.

**The Chair:** All those against the motion?

#### Nays

Doyle, Ron Johnson, Klees, Leadston, Parker, Bob Wood.

**The Chair:** I take it the motion is defeated.

#### GABRIELLA FOWLER

**The Chair:** We will now proceed to our first presentation, Gabriella Fowler.

**Mr Kormos:** Mr Chair, let me applaud the courage of Toni Skarica, Gary Carr and Bill Murdoch. Let me hope for the balance of government members, including those on this committee, that they can somehow find the way to muster up the same or even a fraction of that courage.

**The Chair:** Thank you, Mr Kormos.

We have kept our guest waiting for close to three quarters of an hour. Thank you for that. Welcome, Miss Fowler. I welcome you to the committee and I apologize for the delay in permitting your presentation. I'd ask you to proceed.

**Ms Gabriella Fowler:** My name is Gabriella Fowler. I live at 5421 Reginald, unit 2. On February 18, 1997, I left for work. I'm a waitress at Charlie's Bar. I left my 14-year-old with my four-year-old and at approximately quarter to 12 at night I got a phone call saying that my house was on fire. My little girl was trapped in the bedroom upstairs. When I got home, the fire department

had been there. They got her out and she was barely conscious.

From what I understand, what had happened was my 14-year-old decided to make French fries and poured grease into a pot. She took the bag of potatoes, went into the front room and started cutting the potatoes, but little did she realize that when she poured the grease into the pot, the grease went on the outside of the pot and went directly on to the burner. As soon as she was done cutting her French fries, she came out and the whole kitchen had gone. The cupboards had ended up catching on fire and the smoke was so thick she couldn't see two feet in front of her. She managed to get the burner turned off but by this time she had inhaled so much smoke that she couldn't get up to save her sister because she had already been feeling it and she couldn't really see too much in front of her. She called to my other daughter to stay upstairs and that she was going to go and get help. She ran outside and she went over to my neighbour's and called the fire department. My neighbour had called me at work.

When the firemen had gotten there, their response time was less than four minutes from the time they got the call. When they got there, they went upstairs and my little girl had crawled out of her bed and gone into her closet and lain on the floor of her closet. They still managed to find her within seconds. They heard her crying in the closet.

From what I understand, what you're trying to do here is put in a temporary fire department. If this bill is passed and if this fire was after that, it would have made a difference. I wouldn't have wanted to risk seeing, knowing, taking that chance of my daughter's life, on a risk, to see if it's worth it. All I can do is — I'm not saying what's right, what's wrong, I'm speaking from my reality and the situation and from my heart. A couple of more minutes, my daughter wouldn't have made it.

Once we got out of the hospital — my daughter was in there for a few days — I did take her over to the fire department because I was very pleased in their response, and she met everybody. When I got the phone call to come down and speak, I jumped at it, because I think the fire department, the way that it stands now and not taking chances, did the best they could do. They saved my daughter's life as far as I'm concerned.

I don't know what more to say, but I just wanted to come down and say that.

**The Chair:** Thank you for sharing that, Miss Fowler. There may be some questions.

1110

**Mr Klees:** Thank you very much for your presentation. As we have said many times, we've had numerous representations across the province from people who have had similar experiences to yours, where the firefighters have played a very key role in saving lives. I just want to assure you that this is our objective as well, to ensure that not only will that level of service continue but that it will actually be improved.

Your concern is based on a fear you have that this bill has as its objective to put in, as you've put it, a temporary fire department. Let me assure you that there is absolutely nothing in this legislation that proposes that.

That is not factual. I'm not sure where that information has come from, but I just want to allay your fears or anyone else's who may be observing these hearings that that is not the objective of this legislation.

**Mrs Sandra Pupatello (Windsor-Sandwich):** Thank you for speaking to us today. There are parts of this bill that do speak to part-time firefighters and also speak to privatization of the fire departments. We saw yesterday a film in my office that showed a private company called Rural/Metro. The most significant problem with the private company that runs in Tennessee is that their response time is so poor and fire damage is so significantly more that insurance companies will either refuse to cover or the insurance rates are dramatically higher because the fire loss is so much higher when they've gone to privatizing the fire department. So while Mr Klees would like to tell you or placate you and say, "Oh, there's nothing in this bill that's like that," the reality is this bill does allow for privatization, it does allow this expansion of part-time and on-call firefighters as opposed to being on a shift. Then it becomes a matter of who's going to be available at what time when the fire alarm goes off. I have no questions.

**Mr Duncan:** Thank you for your very compelling testimony. The story is well-known and has been repeated on umpteen occasions in Windsor. The only commentary I would like to share with you is that prior to being elected to the Legislature I sat on Windsor city council, and our fire department has been run in an exemplary fashion. Our firefighters are second to none. There have always been movements to make better use of resources within our fire department. There is a good climate of labour relations in our fire department. I think it needs to be said that things work reasonably well, and when they don't work, we're able to make them work better.

Unfortunately, the government — as I don't agree with Mr Klees — has taken the position that we have to shake the whole mixup. Anybody who's been involved with the Windsor department over the years knows that we have one of the finest services in the province, if not the country, and that the men and women who staff that and the leadership in the department, on both the labour and management sides, have worked together. Any time there have been problems, we've been able to resolve them and continue to offer first-rate service that can't be compared, in my view certainly, to any other private service anywhere. I think the kind of testimony you bring forward shows just how out of touch the government is with the reality of modern firefighting, particularly in a community like Windsor.

**Mr Kormos:** Thank you kindly, Miss Fowler. I don't think any of us is unmoved as you and others like you talk about some very personal and gut-wrenching experiences. We saw it this morning when we saw firefighters from Windsor rappelling down the side of this building. I don't know about the rest of the folks, but I was standing on the ground and I was shaking; I wasn't the guy or two guys up on top of that roof rappelling down, simulating a rescue.

As for Mr Klees, all of us stay up late at night sometimes. We watch those infomercials; you know, the ones that would purport to sell you a carburetor that will give



you 200 miles to the gallon, and from time to time people buy them. I used to be critic for the Ministry of Consumer and Commercial Relations, and they'd end up calling my office because of course there is no such thing as a carburetor that gets 200 miles to the gallon. But there are some operators who think that if they say it often enough and with a straight enough face, somehow they can turn it into truth.

**Fact:** As you have observed, this bill is going to permit part-time firefighters. **Fact:** Part-time firefighters have a slower response time; it has been proven across North America. Second, part-time firefighters are not going to be as well trained. We've heard from any number of sources that a part-time firefighter would have to be on for a good 10 years at least to even come close to the level of training of a first class firefighter. Third, part-time firefighters, simply because of the nature of being part-time, can't become a part of that unique, remarkable —

**Ms Fowler:** Team.

**Mr Kormos:** — team. **Fact:** This bill opens the door, lays out the carpet, for the American corporate for-profit firefighting services, which have a disastrous record in the United States. It's a fact. It's there. You and others like you know that. **Fact:** This bill, among other things, prohibits firefighters from negotiating what their work hours are going to be and extends their workweek up to 48 hours. That's going to mean firefighters will be under incredible stress, unable to negotiate work hours, and it will put them, firefighters, and members of the community at risk.

This fire service bill has been properly identified as a real threat to public safety. I know what Mr Klees is doing here. It's his job. He gets paid quite well for doing it too, as a matter of fact. The minimum wage at Queen's Park isn't shabby at all.

**Ms Fowler:** Can I get a job?

**Mr Kormos:** At the same time, you know, the Kathie Lee Giffords and those of that ilk would get paid reasonably well for their pitches at 2 in the morning on those infomercials. I suggest that you no more believe that than you would believe some of the pap you're fed on those 30-minute-long televised commercials that would have you send them your Amex card number or your cheque or money order for products that are going to come nowhere close to doing what they say they're going to do.

**The Chair:** Thank you, Ms Fowler, for sharing your personal experiences with us. We're very pleased that your daughter is okay.

**Ms Fowler:** She's doing fine.

#### JACK CHANDLER

**The Chair:** Our next presentation is Mr Jack Chandler. You have a written presentation from Mr Chandler. Welcome. Please proceed.

**Mr Jack Chandler:** Good morning. Jack Chandler, Wallaceburg Fire Department. I'd like to hit on response times.

The possibility of having fewer firefighters on duty and counting on other firefighters to respond on a call-in basis

worries me. We have this in Wallaceburg, and when we report to a fire scene it only takes a couple of seconds to realize that three of us can't handle it and we'll have to call back in for help. When we do put out the all-call for help, it's at least 10 minutes before other firefighters show up. You know how far a fire can go in 10 minutes.

At the fire scene we have to perform rescue, ventilation and fire suppression. We need to have enough guys on the scene to do all of this. If we are waiting for firefighters to come from home, one of these jobs will suffer. That's assuming that other firefighters are coming, that we know for sure help is coming. I've been at the scene numerous times in the summertime when people have gone camping, people have gone away, and people have never showed up. The police have gone out on the streets trying to find somebody to give us a hand when the weather is 90 degrees out and you've got pumper gear on. We've lost houses on account of that, because we're just short-handed.

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When we look at a call-in system, we don't know how many people are coming back, like I say. If such a system was in place, we would have the added expense of paying these firefighters for being on standby. Why not put the money towards having full-time staff on duty?

We've tried part-time firefighters. It didn't work out. We tried this years ago. They brought them in at part-time. Their first job is where they work. If we had them working on the night shift, they'd get up at 5 o'clock in the morning and go home because they'd say, "I have to be at work at 7 o'clock or 8 o'clock." They don't have the training. When you respond to a scene with a part-time firefighter, you have to keep an eye on the part-time firefighter, whereas with your brother firefighters you work with full-time, you know exactly what they're going to do and they know what you're going to do. But with a part-time firefighter, if you go into a burning home for a rescue or a suppression, you've got to keep an eye on that part-time man. I've seen it where they followed us in — it's supposed to be a buddy system — and two minutes later you turn around and he's gone. He says: "This is only my part-time job. If I get hurt, who's going to look after me?" It doesn't work. It was already brought up, the training; it takes years of training. They'd have to have years of training before I would feel comfortable working with these people.

We have been assured in Wallaceburg that this will not happen. With the restructuring going on and the cutbacks, the mayor promised us that we've been cut as far as we can go. I work three people on a shift, two firefighters and an officer. When you pull up to a scene, you have your officer trying to size up, you have your pump operator and you have one man coming off with an airpack grabbing a line. So you only have one man there for a few seconds to fight the fire until your pump operator can get on to an airpack and go in and back him up. Two people going into a burning building for a rescue, that's ridiculous. Like I said, if we call back for help, it could be 10 minutes, if you get any help. These part-time guys wake up in the middle of the night, it's 3 o'clock in the morning, it's freezing out, and they say, "I'm not going to go." I don't want to get on to it too much; I'll just get too pissed off.

**Mr Ron Johnson:** Join the ranks.

**Mr Chandler:** Look at it this way: Lives depend on it. If you need open-heart surgery, would you want the best possible surgeon or somebody who just operates part-time on the weekends?

Just a word on privatization. They have poorer training. These companies go into this to make a dollar, so they're not going to keep their equipment up. They'll bring in anybody off the street, pay him minimum wage, charge a user fee, which you've seen down in the States years ago. If you didn't pay that user fee, your house burned down.

In Wallaceburg it costs each household approximately \$10 per month, which is cheap, for full-time protection, plus our firefighters are all trained as emergency first responders to back up the ambulance or take over if the ambulance is already busy. Are these part-timers going to be that fully trained to help? We do everything the ambulance personnel can do. We have trained paramedics in our department right now. Everybody is dedicated.

I agree with some improvements in the bill, to fire prevention and education. This has been long overdue. I want you to know I don't disagree with Bill 84; I just want to make sure we maintain safety in all areas of firefighting.

Thank you for your time; I appreciate it. If there are any questions, I'll try to answer them.

**The Chair:** Thank you, Mr Chandler. We have a couple of minutes per caucus. I'd like to ask you, what's the composition of the Wallaceburg force?

**Mr Chandler:** The chief, 12 full-time and 10 volunteers.

**Mrs Pupatello:** I wonder if the people in Wallaceburg realize that a good reason for the government to bring forward a bill like this that would allow for privatization is because of the significant cuts to municipalities across Ontario. They have to give the towns and cities some kind of a toolkit to find a way to save the money.

Right now in Windsor, for example, our local city councillors are highly supportive of our local fire department. Our fear is that next year when another cut comes to the city of Windsor every city and town is going to be looking for where they can find money out of their budget. At that point, they have to say, "I hate to look at the fire department, but we've got to have a look here too."

Bill 84, if passed the way it is, will allow them to look at privatizing fire departments. In the southern states, it's the smaller towns and cities that have looked at privatization, and some have gone for it, not necessarily the major urban centres. Would your city of Wallaceburg be one of those you feel, given the significant cuts that are coming still to Wallaceburg from the Conservative government, may look to privatization?

**Mr Chandler:** No. I have in writing from the mayor and council that we will stay the way we are on account of the industry we have in town. They had open hearings last year. We went from a 42-hour to a 48-hour week. They were thinking about cutting our fire department back. You should have seen the support we had from the people, and the mayor and council listened and kept it at 12 full-time, even though we would have liked to have

more. But they kept the fire department where it is. It's in black and white; it has been on the radio, it has been on TV and it has been in the paper that we will maintain our fire department the way it is.

**Mrs Pupatello:** Are you a former chief or are you the current chief?

**Mr Chandler:** I'm chief right now.

**Mrs Pupatello:** Chief, did you ever think that as the fire chief you'd have to take on this kind of advocacy role just to maintain appropriate fire service in your community?

**Mr Chandler:** No. It seems to me that over the years fire services build up, with better training every year. Now it seems the government is trying to knock it down, put us back where we were 50 years ago.

**Mrs Pupatello:** Don't you do more as a firefighter today than ever, in terms of the kinds of rescues, the method, the places you water, a number of different areas that 50 years ago firefighters simply weren't involved in?

**Mr Chandler:** Oh, 50 years ago firefighters went out and "surround and drowned." Today it's fire prevention and education. You're talking to schools, you're taking courses, hazardous material and what have you. You've got to specialize, probably, in a dozen different things, which years ago you never did. Like I say, we do lots of shared responses with the ambulance. In Wallaceburg, the ambulance personnel go home at 2 o'clock in the morning. From 2 o'clock to 8 o'clock there's no ambulance service. They have to leave their home, go to the ambulance base, pick up an ambulance and go to the scene, which could be — how many people would you lose, heart-attack time?

**The Chair:** We must move on. The committee welcomes Mr Howard Hampton, the member for Rainy River.

**Mr Howard Hampton (Rainy River):** Mr Chandler, as the Chair has just indicated, I am not a full-time member of the committee. I observed for a while in Toronto, and I sat in for a while yesterday in Hamilton. I'm pleased to be here today. I want to ask you a general question based on what I've seen in the three days I've had a chance to observe.

My sense is that the government is prepared to gamble with public safety, prepared to gamble with public security and prepared to gamble with public health so that they can take some money out of fire services; in some communities, they'll also be taking money out of policing; and across the province, it looks like they'll be taking money out of ambulance services. That's the general impression I'm getting: They're prepared to gamble with those things in order that they can pull back some money out of fire protection, fire services, ambulance services and policing services. As somebody who is in the business, what's your sense of that? What's your sense of things?

**Mr Chandler:** I see the government doing that, the ambulance, fire, police. As I said a few minutes ago, it seems like the government is trying to set us back 50 years. Canada has come this far, and we're one of the leaders in health, ambulance, fire protection and police, but the government seems to be trying to take all this away from us and make everything part-time, like



working at McDonald's part-time. To take these full-time jobs away, I don't really understand where they're coming from.

**Mr Hampton:** I want to put this to you squarely, because you've talked about it a bit. Do you think — and I'll make the question more general — part-time ambulance attendants, part-time police officers and part-time firefighters can at any time do the job as well and as consistently as full-time people who have full-time training?

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**Mr Chandler:** No. When it comes down to the crunch, they're not going to put themselves on the line, as a part-time person, where professionals will, they say, and they're trained for it. Part-time, they run in blind and end up getting hurt. A professional can look at a scene and size it up in a matter of seconds; but part-time, no, if they think there's any possibility of getting hurt, they're going to back off.

**The Chair:** We must move on.

**Mr Ron Johnson:** Thank you, sir, for your presentation. You indicated a couple of concerns; one was, obviously, the part-time issue, and much has been said about the privatization issue. I've been a vocal opponent of privatization since the start of the committee process.

**Mr Duncan:** We know.

**Mr Ron Johnson:** You know. I am still a member. Although I may not be a Vice-Chair, next week I will still be a member of this committee, I hope. As long as I am, I want you and those listening to know that I will continue to be vocal opposition to the privatization of fire suppression services.

I want to say, though, with respect to the part-time issue, that I have in fact asked many questions about the part-time issue. I want to ask you, where you are practising firefighting, do you in fact work with part-time — not part-time, but you're working now with volunteers, is that correct?

**Mr Chandler:** Yes.

**Mr Ron Johnson:** When you go to a fire site, where you've got perhaps a house or whatever on fire, do you work hand in hand with those volunteers to put out that fire? How does that work? What's the system you have in place?

**Mr Chandler:** When there's a call-back, we're calling back all the rest of the full-time guys plus the volunteers. The volunteers will muster at one of the engines. We'll set them up, say, take one or two volunteers and put them with two of the full-time men to back them up, dragging hoses and so on.

**Mr Ron Johnson:** Do you work well with them?

**Mr Chandler:** Most of them.

**Mr Ron Johnson:** The point I'm trying to get at is, is there really going to be a difference — and I don't know; I've never fought a fire in my life — between how well you're able to work with a volunteer firefighter and how well you'll be able to work with a part-time firefighter?

**Mr Chandler:** Talking to my men, they don't feel as comfortable going into a home that's on fire with a volunteer as they do with one of their brother firefighters, because working together 24 hours a day, eating, sleeping, you get to know each other; you know how to trust each other, you what each other are thinking.

**The Chair:** Our time is up. Fire Chief Chandler, thank you for attending here today. We appreciate your input.

**Mr Chandler:** Thank you for having me.

DONALD MCGREGOR

**The Chair:** Our next presentation is Donald McGregor. Good morning, Mr McGregor.

**Mr Donald McGregor:** Good morning.

**The Chair:** Please proceed.

**Mr McGregor:** Mr Chairman, members of Parliament, ladies and gentlemen, good morning. My name is Donald McGregor and my interest in Bill 84. My wife and I have resided in the city of Chatham for the past 42 years. We have four children. All those children are married and live either in the city or very close to Chatham. They have blessed us with 12 grandchildren. I own property in the city of Chatham. Therefore, I am very interested in the protection of my property and the lives of my dear grandchildren and wife.

I'd like to share with you a very true story. I joined the Chatham fire department January 1, 1959. I worked my way up through the ranks to first class firefighter. It takes four years to become a first class professional firefighter. I was promoted to acting captain, training instructor, captain and deputy chief, retiring January 30, 1992. I'm a graduate of the Ontario Fire College technology course.

Very briefly, I would like to share with you one of my very first experiences as a first class firefighter. It was January 6, 1963. The alarm came in: 145 Victoria Avenue, corner of Forest and Victoria Avenue, Blessed Sacrament Church. First response was from station number 1, and that was unit number 5. On that unit was a captain, pump operator and two professional first class firefighters. On ladder unit number 3 — I had just become a first class firefighter, so now I could drive unit number 3 — that was me. I had a probationary firefighter with me. Response from number 2 station was another pumper, unit number 1: a captain, a pump operator and one first class firefighter.

If you've been keeping track here, the first response was a total of nine professionally trained officers and firefighters of the Chatham Fire Department. The time was early afternoon. The weather was cloudy and cold. The road conditions were wet with slippery spots. Response time was two and a half minutes.

I'm going to call the captain of unit 5 "Captain 5." Unit number 5, first on the scene. In his professional size-up, the captain indicated smoke from various areas of the church, under eaves and around the doors etc. Captain 5 to unit number 1: "Catch hydrant and lay it into unit 5 at the rear of the church." Captain 5 to ladder unit number 3 — that's me again — "Prepare to open the roof for ventilation." I positioned unit 3 and extended the ladder to the peak of the roof. Captain 1 then took charge of ventilation.

Captain 5 gave direction to charge hose line. When hose lines were ready, Captain 5 directed Captain 1 to ventilate. Captain 1 had unit 3 — that was me and a probationer — to open the roof. A firefighter from unit number 1 opened the front doors. Two firefighters advanced into the rear of the church with hose lines on the fog pattern. The fire was quickly extinguished with

limited structure damage but extensive smoke damage. The next day in the Chatham Daily News the article stated that the estimated loss in the Blessed Sacrament Church fire was \$150,000 to \$200,000.

These are the points I would like to bring up to this committee today: the quick response time, two and a half minutes from the time of the alarm until we were there. The second point: at least minimum staffing of full-time, well-trained professional officers and firefighters who are trained in fire ground operations. Fire ground operations must consist of size-up, firefighting tactics, ventilation, stages of fires, hydraulic, hose lines, characteristics of water — just to point out that one cubic foot of water when applied to a fire on a fog pattern will produce 1,700 cubic feet of steam, so you see the large expansion — the need for proper communication, teamwork, and the list goes on and on with professional firefighters. 1140

I firmly believe the professional firefighting tactics that were carried out at this incident saved several millions of dollars in property damage. I am told the stained glass windows alone in Blessed Sacrament Church are insured for \$3 million dollars. To replace that church today, it would be somewhere between \$12 million and \$14 million, they tell me.

This is just one of many incidents during my years of service on the Chatham fire department that I could share with you. Many times the news media would report a \$20,000 or a \$100,000 loss, which should have read "a \$200,000 save or a \$1-million save."

I've been there when we couldn't save the life or the property we tried so hard to save, because we weren't called in time or because the fire was just completely out of control by the time we got there. That hurts every professional firefighter.

This morning I humbly ask you, as a retired professional firefighter and deputy chief of the Chatham Fire Department, and as a father and a grandfather, to remember my little story during your deliberations on Bill 84. I thank you.

**Mr Bisson:** I want to thank you very much, Mr McGregor, for your presentation. I guess the simple question — I think you've already answered it, but for the record I'd be looking for a clear answer — is, if that fire you talked about that happened in 1963 had been responded to in a manner where you had maybe one or two full-time firefighters at the firehall and had to rely on the calling in of part-time firefighters to the scene of the fire, would the damage have been more extensive?

**Mr McGregor:** Most certainly. The \$3-million windows I'm talking about that are still there today would have been lying in the parking lot or yard.

**Mr Bisson:** This is a tough question, and it might not even be a fair question: Can you estimate, in the time you've been a firefighter over the years, how much money you've actually saved the taxpayers, the residents and the insurance companies of this province in the fires that you were able to get to on time?

**Mr McGregor:** That would be impossible to say; a large amount of money, though.

**Mr Klees:** Mr McGregor, thank you for your presentation. You speak with pride about the Chatham Fire

Department, and rightfully so. You're aware, of course, that the existence of that fire department, the staffing, the money that is used to ensure that there is a high-quality staff there, comes from the municipality.

**Mr McGregor:** Certainly.

**Mr Klees:** It's the responsibility of the municipality to make sure that those standards are there and that you have the resources with which to deliver your service. Is that right?

**Mr McGregor:** Right.

**Mr Klees:** As much as Mr Kormos would like to say that we're spinning this legislation, the truth of the matter is that nothing changes with regard to who has the responsibility to make sure that there's adequate staffing, that the standards of training are there, and in fact, whether it's part-time or full-time or volunteer, that still is the responsibility of, and the decisions for that will be made by, the municipality. Do you have any reason to believe the council, the local municipality, would in any way compromise the staffing levels or the level of service that is being delivered by your fire department now if this legislation were to provide the opportunity to have some part-time people involved?

**Mr McGregor:** I would certainly hope they wouldn't change what they presently have. At least maintain what we presently have in professional firefighting services.

**Mr Klees:** Precisely. The point is that it really is the responsibility of the municipality.

**The Chair:** We have to move on.

**Mr Ramsay:** Thank you very much for your presentation. I think what Mr Klees is not telling you is that the Harris government is going to be putting your council in an impossible situation with all the downloading. While I know your council wants to provide the very best firefighting and protection services they can for their citizens, this downloading is going to make it impossible for them not to be cutting in every place possible that they can at the local level.

Bill 84 is the loaded gun that the Harris government is going to pass to your council to put down your fire department. They can do a lot of things, and you referred to them, privatization being one, bringing in part-time people instead of relying on the full-time professional you talked about who is really needed in a professional fire department. That's the problem with this.

If all members around this table really believe we should look at fire protection especially as a provincial interest, we should be taking out those clauses in this bill that would allow, under tremendous pressure, municipalities to start to cut into a service that I think responds very well for the people in every municipality across this province.

**The Chair:** Mr McGregor, thank you very much for sharing your expertise with us today.

JAMES ANDERSON

**The Chair:** Our next presenter is from the Chatham Fire Department, Fire Chief Jim Anderson. Good morning, Fire Chief. I again apologize to you and other presenters here for the delay in getting started this morning. Members should have received a written presentation. I'd ask you to proceed.



**Mr James Anderson:** It is indeed a pleasure and a privilege to come before you this morning to present my views on Bill 84. I'll probably espouse some views on the other rhetoric that is happening but also on the specific bill itself.

I've given a copy of my presentation this morning. Good morning to all. My name is Fire Chief James J. Anderson. I am presently the fire chief of the city of Chatham, Ontario. I have held this position of fire chief since 1989. Prior to being assigned the role of fire chief, I was the deputy fire chief from October, 1983. Before that, I was a firefighter with the city of Chatham from December, 1963, until my promotion to deputy chief in 1983.

The previous speaker was a former deputy chief of mine, certainly a fine gentleman. He related a story to you. He didn't tell the whole story. I was the probationer riding with him to that church fire. We did make it in two and a half minutes, but the rest of the story is that we took off a telephone pole getting there, and we still made it in two and a half minutes and we still put the fire out.

**Mr Ramsay:** Was he driving at the time?

**Mr Anderson:** Yes, and he passed me on the ladder to put a hole in the roof. He was training me, and he did a remarkable job, I hope.

During that 22-year period, I was president of the Chatham Professional Fire Fighters Association for some 13 years. For several years now, I have been actively participating in the Ontario Association of Fire Chiefs, holding the positions of director on the board and second vice-president of that organization.

I am here this morning to present my views on the fire protection and prevention bill. For several years now, the fire chiefs have been working diligently to help to initiate change in the fire service of Ontario, with a view to ensuring the citizens of Ontario can enjoy a fire-safe environment. As of December 23, 1997, I will have completed 34 years in the fire service, and to say the least, I feel confident that I have contributed in providing a good level of service in fire-related matters. Over the course of those years, I have been privy to objective viewpoints from many people in the fire service in trying to update the legislation as it now stands and to meet the challenges of the 1990s and beyond.

There has been a great deal of input from all parties into this legislation. There has been a lot of consultation. There has also been much rhetoric. As I understand it, at this point in time we are in fact on the verge of changing legislation in a positive way for the citizens of Ontario.

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As I stated earlier, the Ontario Association of Fire Chiefs has had a very active role in helping to bring this legislation forward, and in recent years the legislation has been developed to enhance public safety and in no way diminish it. During the course of these public hearings, and indeed prior to them, you have been presented with a document prepared by the board of directors of the Ontario Association of Fire Chiefs, called The Fire Chiefs' Response, and that's this document here. As you are in possession of that document, I am sure, and are familiar with it, I just want to state that I support this document and the OAFIC; that's, again, this document.

I would like to draw your attention to page 1 of the document, in particular "Association Objectives." These are:

"To promote interest in and the study of fire services for the greater protection of life and property from fire;

"To engage in research and the study of problems affecting fire services at the municipal, regional and provincial levels;

"To establish, support and aid in the establishment of programs, surveys and other activities which contribute to the advancement and development of fire services generally;

"To encourage cooperation with organizations in developing and stimulating public education in fire prevention for the preservation of life and property from the destruction of fire;

"To propose and support legislation, at all levels of government, for the advancement and development of fire services."

I believe those opening statements are correct and just about say it all.

On page 3 of that document, "The Overview of the Legislation," it states, "It is the view of the OAFIC that the proposed legislation contained in Bill 84 is a positive step forward in public fire safety."

The fire chiefs have been calling for changes to the outdated fire service legislation for many years, to reflect the changing face of the fire service. Bill 84 provides the flexibility for municipalities to deliver the appropriate level of fire prevention and protection in each community, and I support that concept.

The proposed legislation is directed towards fire prevention and public education. The OAFIC believes this is a positive move towards improved public safety for all Ontario residents. We encourage the government to retain the need for mandatory services through the process of legislative debate.

The OAFIC has consistently called for flexibility to establish a strong management team to take the fire service into the future. The provision of an enhanced management team within the legislation is another positive step. We also support the need for exclusions from bargaining units of all positions for which a management responsibility can be demonstrated. We urge the provincial government to be firm on the concepts within the proposed legislation, as they are, in our opinion, fair and reasonable to all parties.

I would like to draw your attention to page 5, "Public Education Programs."

"Education of the public will enhance fire prevention programs and will raise the profile of fire risks and the dangers of fire. Recognizing dangerous situations and having the knowledge to deal with those dangers will help reduce the incidents of fires and save lives. We support this initiative in the proposed legislation."

Since 1983, the Chatham fire department has taken a proactive approach to fire safety education. With our own Sparky's Learn Not to Burn program and our real Dalmatian dog, we have entered into an educational program for the young people of our community that is proven to have worked. In my estimation, public education programs are the key to fire safety in Ontario.

I would like to draw your attention to page 8 and the conclusion of this document.

"The proposed legislation will provide through its direction and guidance, an effective fire protection and fire prevention service for all of Ontario. We support the concepts and principles within Bill 84.

"The members of the Ontario Association of Fire Chiefs believe this legislation will enable an effective and efficient delivery of fire protection and prevention services, into the next decade and beyond.

"We urge the government to adopt the legislation."

Having reviewed the fire chiefs' response to the Fire Protection and Prevention Act, 1996, I would like to now draw your attention to the proposed act itself.

Under part I, "Definitions":

"'firefighter' means a person employed in, or appointed to, a fire department and assigned to undertake fire protection services, and includes a volunteer firefighter."

In my estimation, this is a better definition than the present legislation, which states that firefighters would be assigned exclusively to fire suppression and fire prevention. Under the present act it is either/or, not both. In the new act, "firefighter" will mean a person employed to do all these things. I believe we've been doing it; I believe we should carry on doing it.

The second definition I'd like to draw your attention to is "fire protection services":

"'fire protection services' includes fire suppression, fire prevention, fire safety education, communication, training of persons involved in the provision of fire protection services, rescue and emergency services and the delivery of all those services."

My view is that this is a far better definition. Certainly, it is more concise and is more all-encompassing than the present legislation.

The third definition I'd like to bring your attention to is "automatic aid agreements":

"For the purposes of this act, an automatic aid agreement means any agreement under which,

"(a) a municipality agrees to ensure the provision of an initial response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department in the municipality is capable of responding more quickly than any fire department situated in the other municipality; or

"(b) a municipality agrees to ensure the provision of a supplemental response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department situated in the municipality is capable of providing the quickest supplemental response to fires, rescues and emergencies occurring in the part of the other municipality."

To me, this is a provision which has been talked about and bandied around for some 25 years or more. It's about time we did it. This is an excellent way to ensure a proper, timely response to emergency situations in the province. It is a definite improvement. We are here to save lives and we should be taking full advantage of that new concept.

Under part II, "Responsibility for Fire Protection Services:

"Municipal responsibilities

"2(1) Every municipality shall,

"(a) establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention; and

"(b) provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances."

In my estimation, this is not just something to talk about; this will in fact do something about it. Fire protection services should be available to everyone in the province of Ontario, and the wording of the act will see that this happens.

**1200**

Regardless of the rhetoric coming from some organizations, I firmly believe that the municipal responsibilities have been and are being faithfully carried out by present-day mayors, councillors and management teams. I feel they would never allow their citizens to make do with less, and I respect and support that.

Under part II, section 6, "Fire chief, municipalities:

"Responsibility to council

"(3) A fire chief is the person who is ultimately responsible to the council of a municipality that appointed him or her for the delivery of fire protection services."

The key words are "ultimately responsible." There is no attempt here in any way to usurp the authority of a city manager or CEO. The responsibility lies with the fire chief to report through the CEO to council, but in the end it will be the fire chief who is ultimately responsible and answers to council for fire protection services. It has been this way for some years; I believe that is the way it should be. The fire chiefs also believe that's the way it should be and we firmly believe that is what the act delivers.

This legislation as presented has a good many parts to it, the majority of which are a fine compilation of fire safety for the citizens of Ontario. It's quite obvious some disagree, but that's their right and that's their responsibility. I wouldn't have it any other way.

Part X refers to "Fire Safety Commission." Under this, it allows for the Fire Code Commission to be established, appointment of its members and how it will do business.

Under Part XI, "Fire Marshal's Public Fire Safety Council," again this is a good, positive step whereby the fire marshal is given the authority to appoint a public fire safety council. It is established by legislation. This fire safety council can do the things that need to be done to ensure public fire safety education and safety information is promoted throughout the province. The establishment of the Fire Marshal's Public Fire Safety Council is definitely a step forward for the 1990s and beyond, and is a requirement I'm sure will prove effective and worth having to ensure that the citizens of Ontario have input into the direction the fire service and which way it's going.

Under Part XII, "Miscellaneous," protection from personal liability is outlined. Indemnification for firefighters is completely covered.

In conclusion of my presentation here this morning, I feel I can truthfully say that the provisions of this act will propel the fire service into the next millennium. It will



give a clear understanding to everyone both inside and outside of the fire service as to what the obligations are, what the requirements are and what the protection is for everyone involved.

The Ontario Association of Fire Chiefs has promoted this new legislation, we have helped develop this new legislation, and we wholeheartedly, unequivocally lend our support to it. We see the passage of the legislation as being a giant step forward that will see the fire service excel and improve for the future.

We have before us some of the finest, most comprehensive fire service legislation in Ontario, Canada, North America and possibly the world. I wish to congratulate the Solicitor General, Robert Runciman, and his government for having the guts to bring it forward for open and honest debate, and hopefully its passage into law. Our citizens' lives may depend on it and on us in the fire service.

I have a couple of notes, if I may, Mr Chairman.

**The Chair:** I'm afraid, Fire Chief Anderson, the time has elapsed for your presentation. It's a little over 15 minutes. We thank you for sharing your expertise here this morning with the committee. We appreciate it very much.

Before we go to the next presentation, we are running somewhat behind and there are two alternatives. We can take lunches in rotation — that will take the cooperation of all the caucuses — or we have three more presenters yet this morning and then we can shorten the lunch-hour by a half-hour. What does this group want?

**Mr Klees:** Let's shorten the lunch-hour.

**The Chair:** So we're all here? Okay, we shall do.

**Mr Kormos:** On a point of order, Chair: Mr Wood is the new parliamentary assistant. This is his first day in this committee as parliamentary assistant. His role is probably the most important of any here, because his role is to listen to the submissions and advise the Solicitor General as to appropriate amendments in response to those submissions. He makes an extra \$12,000 or so a year in addition to his \$78,000 base salary as an MPP; he's paid for doing that work.

Please, Chair, I've watched him, as have others over the course of the last two presentations, and he appears to have been more preoccupied with his Toronto Star, or whatever that newspaper happens to be, than with the presenters. Would the Chair have him put the damned newspaper down somewhere so that he at least appears to be paying attention to the submissions being made?

**The Chair:** Mr Kormos, that is not a proper point of order, as you are aware.

#### CITY OF LONDON

**The Chair:** The next presenter is from the city of London, Anne Marie DeCicco, councillor, and Fire Chief Gary Weese. Welcome; good morning. I'd ask you to proceed.

**Ms Anne Marie DeCicco:** We appreciate the opportunity to be here and present the official position of the corporation of the city of London. While we do believe as a city that Bill 84 addresses many of the issues that have been of concern to local government, we have some suggestions for improvements to Bill 84.

The city of London supports the central theme in this bill, that being a focus on public education and fire prevention. No one can argue with the fact that preventing fires and their consequent damage to property and risk to life are very important strategies. While the city already has public education and fire prevention programs in place, we do support the notion of requiring all municipalities to have these services available to their residents, but we urge the government to provide assistance to those municipalities that have yet to develop those services. For many, that would be a costly venture.

The city of London does not support — I repeat, we do not support — the concept of privatization of such an essential service as fire suppression. It is our belief that two sections of this legislation, both of which establish definitions, could be interpreted to lay the foundation for privatizing the service. Those are section 1, which defines "fire department" as "a group of firefighters authorized by a municipality, group of municipalities or by agreement...." and section 41, which defines "employer" as "a municipality, person or organization that employs firefighters." Both of those definitions could well be interpreted to permit a municipality to authorize or contract with an individual or a company to provide fire protection services.

The city of London does not believe that this is an appropriate measure, and it is opposed in general to the privatization of essential services such as fire protection. Therefore, the city recommends that section 1 be amended to read "a group of firefighters employed by a municipality," and section 41 be amended to read "means a municipality that employs firefighters."

We also want to address the section of the legislation which addresses the appointment of a fire chief. While the city of London certainly does not argue with the basic intent of this section, we do have some concerns that the section as drafted does not address the different approaches that municipalities take to structure their organizations. Section 6 contemplates the fire chief being appointed by the council and could be interpreted to mean that the fire chief can only report to the council.

Many municipalities now have an administrative structure headed by a chief administrative officer or city manager or city administrator to whom the fire chief reports. In some municipalities, not only the reporting relationship but also the appointment of the fire chief is delegated to the administrative head.

We do not believe that the statute should interfere with the process of structuring and managing municipal organizations. Indeed, the reforms now being introduced to the Municipal Act will require councils to appoint one administrative head. We believe that consistency between these two statutes would be achieved by amending section 6 as follows:

In subsection (1): "If a fire department is established in a municipality or if one fire department is established in two or more municipalities, the council of the municipality or the councils of the municipalities, as the case may be, shall ensure that a fire chief be appointed for the purposes of this act."

In subsection (2): "If two or more municipalities have each established a fire department, the councils of the

municipalities shall ensure that a fire chief be appointed for the fire departments."

We would also expect that subsection (3) be deleted.

As municipal governments re-engineer and restructure to meet local needs and circumstances in the most cost-effective way, new approaches to providing a number of municipal services, including inspections, are being considered. For example, some municipalities are considering the integration of their fire inspection program with their building inspection program. Part VI of Bill 84 as currently drafted would not facilitate that choice by an individual municipality. The city therefore recommends the following amendment:

In section 19(1): "The fire marshal, an assistant to the fire marshal, a fire chief or a qualified individual authorized by council is an inspector for the purposes of this part."

Part VII of the bill provides for situations where an offence has been committed, and prescribes fines and other penalties, including imprisonment for such offences. As the bill is currently written, those provisions could apply to matters addressed under part IX of the bill having to do with labour relations. We believe that the offences section should not address labour relations problems, given that there are mechanisms for dealing with those other than the courts. The city of London therefore recommends that a new subsection 28(4) be included which reads, "Part IX of this act should not apply under this section."

Further, there are many changes being proposed elsewhere in the government relating to the prosecution of minor offences, and the fine revenues that flow from those prosecutions. Under the existing fire legislation, the responsibility for prosecutions was given to the crown attorney and that responsibility has not been carried forward in Bill 84. If the municipalities are to be given responsibility for the prosecution of both minor and serious offences, then amendments also need to be made to the legislation to ensure that all fine revenues as a result of those prosecutions go to the municipality.

1210

Bill 84 contemplates the introduction of a mandatory conciliation process as another step forward in harmonizing labour relations in the fire service with the general labour relations scheme in Ontario. We believe that this alternative dispute resolution is a positive step forward, one that will promote free collective bargaining over interest arbitration and place more responsibility on the parties involved.

However, the city of London does have a concern with section 53(5) pertaining to the cost of the conciliation process. We believe the intention of the drafters was that each party pays its own costs and shares equally the costs incurred by the conciliator. Therefore, we propose that section 53(5) be amended to read: "The parties shall each pay one half of the costs incurred by the conciliation officer."

Municipalities do not have confidence that their interests have been considered and reflected in the decisions of arbitrators in the fire service. While we believe that mandatory conciliation will assist, we also propose that changes be introduced to the arbitration process as it

pertains to firefighters in the province of Ontario. We recommend that a formal rotating list of provincially appointed arbitrators, with set terms of service, be put into place and that the appointment of an arbitrator in any dispute be from that list, assigned by the province. The selection of the arbitrator should not be the subject of decision by parties to the dispute, just as the choice of a judge is not left to the person charged with an offence.

We also recommend that a similar amendment be made to section 54(15) and section 57(13) to reflect the intention that the parties share equally the costs incurred by the arbitrator.

For many, many years, municipal departments have been artificially restrained by law in their ability to properly structure the management functions within fire services. The existing statute provides for only the fire chief and the deputy fire chief being excluded from the bargaining unit, regardless of the size of the workforce. Bill 84 introduces significant changes in this area, establishing by formula a set of automatic exclusions from the bargaining unit and providing for further management exclusions to be determined by whether or not those persons exercise managerial functions.

The city of London strongly supports these changes to the legislation and as well supports the position of AMO that section 58(5) should be extended to reflect the needs of the very large departments in Ontario.

Finally, we have some concern relating to the indemnification section, section 85. This pertains to our earlier comments on part VII, having to do with offences and enforcement, and we suggest that section 85(1)(c) also be amended to read, "in respect of any other proceeding except matters provided by part IX in which the persons," and it goes on from there. Again, this is simply a matter of separating the treatment of labour relations matters from the provisions having to do with both offences and indemnifications in the statute.

In conclusion, Bill 84 makes many positive steps forward in recognizing the pressures and needs of fire services in the 1990s. The city of London urges the standing committee to recommend to the Legislature that the changes be made to the proposed legislation as outlined in our brief as the corporation of the city of London.

Thank you and we're open for any questions.

**The Chair:** Thank you very much. We have one minute per caucus.

**Mr Ramsay:** I want to thank you very much for your presentation today.

**Mr Kormos:** There were two points raised that cry out for a response, so I'd ask the parliamentary assistant. The concern raised about the application of part VII, two violations under IX: first is that the intention of the government? Second, as to the subsection 53(5) which provides for sharing of costs of conciliation, would the parliamentary assistant please explain the intention of that as currently prepared by the government.

**Mr Bob Wood:** The intention is for us to listen to all the submissions and indicate any changes that may be made after we've heard all the submissions.

**Mr Kormos:** Questions have been raised about your drafting of the legislation.



**The Chair:** Thank you, Mr Kormos. Your time is up.

**Mr Kormos:** Why can't the parliamentary assistant respond to those —

**The Chair:** Mr Kormos, you're really grumpy today. Behave yourself.

**Mr Kormos:** You're damned right I am, Chair. When I see this government interfering with the committee process in the most undemocratic of ways, that makes me grumpy.

**The Chair:** You are totally out of order and unparliamentary. Mr Klees, one minute.

**Mr Klees:** There are a number of recommendations you've made that we certainly believe are relevant, and I think you'll some of your recommendations reflected in amendments that we bring forward.

I would like to ask you one point however. You object to sections 1 and 41, in which we define the firefighters as well as the employers, where basically there is an option that is built into the legislation to provide some latitude by municipalities, and yet on page 4 you do call for the municipality being able to make some choices. There has been a call consistently from municipalities to be given more latitude to make decisions. I'm just wondering why, on the one hand, you're asking us to close off that decision-making option and in another section you ask us to give it to you.

**Ms DeCicco:** That's a very good question, and I appreciate the opportunity to be able to respond, because I think there's a very, very big difference when you're talking about privatizing or opening the door to having a company come in from the outside that might be looking at making profit to deal with suppression of fires and an issue that might be dealing with inspections after all.

There's no question in the mind of the city of London that when it comes to dealing with emergency services the municipalities should be accountable. They should be responsible for that. Our community has made it very clear to them that they want us to be in charge of fire services, and the idea of privatizing or opening that door, given all the examples we've been given in the United States, it simply does not make any sense that this be an option at all. We're on record as being against that and do not believe that there should be an option when it comes to fire suppression.

**The Chair:** Mrs Pupatello is going to use the 45 seconds remaining of Mr Ramsay's time.

**Mrs Pupatello:** Councillor, I wonder if you have views personally that differ in any way from your position today as you're representing your city council of London — yours personally.

**Ms DeCicco:** Again I am speaking on my own behalf because there are issues dealing with part-time firefighters which our municipality did not take a position on. I think that's one area where there's a very good argument that it's not a question of whether you get along with one another and can you do that, but it's a question of training and experience.

There's no question in my mind that if there's somebody part-time who has to go from one end of the city to another for a fire, whether they can get there at all, I want to make sure that they are there and have the experience from working and having the training on an

ongoing basis. I would say that's probably one of the other issues which I wish our municipality had taken more of a position on. It's one that I very strongly believe should be dealt with, and I know there are many other presentations you've heard in that respect.

**The Chair:** I'm sorry. Our time is up. I do thank you very much for your very explicit presentation here today.

1220

PHIL WALSH

**The Chair:** Our next presenter is Mr Phil Walsh.

**Mrs Pupatello:** Is that a change?

**The Chair:** It's a change.

**Mrs Pupatello:** Is that replacing Bob Knowles?

**The Chair:** That is replacing our 11:30 am presenter.

**The Chair:** Phil Walsh, welcome.

**Mr Phil Walsh:** Thank you to the committee. My name is Phil Walsh, and I have been asked to speak on behalf of Robert Knowles, who is beside me, and a delegation of full-time firefighters and concerned citizens from the city of Sarnia.

I have been a full-time firefighter for just over 21 years, and Bob Knowles has been a full-time front-line firefighter for just over 30 years. Accompanying us to these hearings are a number of very concerned firefighters and citizens of our community who have a great and very real concern with Bill 84 and its many harmful consequences for the safety of the firefighters and the public.

They're here to tell you that this bill won't work. On their behalf, I'm urging the government to listen to the men and women of the front lines who know what does and doesn't work. These people fight fires every day. They respond to emergencies every day that they're at work, and as a result of that experience, they know the ramifications and the consequences of this bill. This bill makes firefighting even more dangerous for us and the people whom we serve. The government may have had some good intentions at first, but Bill 84 has very dangerous consequences.

I want to tell the committee of an event that occurred approximately a year ago in the city of Sarnia that reinforces in my mind the consequences of understaffing of the fire department. We had a fire call on October 29 at 5:10 am. We responded with two fire trucks from East Street fire station and a backup pumper from the next closest station — that's our typical way — to this reported structure fire. I was the first arriving officer and reported over my radio our arrival and the grey smoke that I saw coming out the front door and the flames that were coming out the east window of the building. They were very easily visible from the road in this rather typical one floor, single-family frame home. Within seconds of our arrival, I requested over my radio a second alarm. A second alarm in our case brings a platoon chief in his vehicle and another fire truck with a few more firefighters to the emergency scene.

One of the things I noticed when I first got there were the number of people who were standing around on the sidewalk, several of them in front of the burning house, and they were variously clothed. None of them had coats,

none of them had jackets or shoes, and it was really cold outside. I asked them if everybody was out of the house, and the words that I heard back still echo in my mind on a regular basis, "My wife's still in there." That reply came from the man as he looked around and counted heads on the sidewalk, wanting to know his family was out. As I said, these words are in my memory and they're going to be there for a long time. They send shivers up my spine every time I think about it.

Had the fire truck I arrived on not had two empty seats, but instead, had those seats been occupied as they should have been by well-trained and experienced firefighters, fully dressed and wearing their breathing apparatus, then we wouldn't have had to wait the few seconds that it takes, and seems like hours, for the two firefighters who were in the truck behind me to don some more equipment, their breathing apparatus and their hoods, so that they could go in and perform the rescue, or try to perform the rescue. In the meantime, the man's wife, who was also the mother of a couple of teenage girls who were with him on the sidewalk, lay in the house.

During this time a neighbour, he was trying to help out but being inexperienced with fire, grabbed a garden hose and stuck it in the window and started spraying water in there. That is absolutely brutal to the firefighters who are going in there and any victims who are still in the house. He was pushing the heat and smoke and flames back into the building. This is a rather common mistake that I've seen made before by people trying to help, inexperienced people. They shove that heat back in there, where it is supposed to be venting out of the building. They upset the thermal balance that naturally occurs in fire situations. They've disrupted that and the tremendous heat is brought down to the floor. Experienced firefighters know that, they've been there, and they don't want to be there again. I don't want to be there again.

I can recall quite vividly the husband screaming in the rear door for his wife to come out and giving the panicked instructions that he gave us and to the firefighters of her last known whereabouts: "She's right there, just go up the stairs and turn left. She's right there in the bedroom." Then the almost panicked screams of "Lynda, come out; please come out, Lynda." The firefighters who were entering were pushed back a little bit by the amount of heat and smoke that was coming out that now had all this moisture in it, but they followed the instructions he gave them to her whereabouts. They went up three stairs, they turned left and they followed the short wall into the bedroom. The two firefighters proceeded in the heat and the smoke to search the bed, the bedroom floor, under the bed, in the closet, everywhere in the bedroom that she might have been. The radio report came to me from the lieutenant who was in there in charge: "She's not in here. She's not in the bedroom. We've searched."

Just about that same time I turned around and another fire truck had arrived, the one that was coming from the next nearest station. Firefighter Kirk Morritt and firefighter Glen Harding got off that truck. They had their breathing apparatus on and they went into the house to assist in the search for the missing mother. They found her within two seconds of going in the door. She was right there. If they had been on that fire truck, the first

arriving truck, if I had had those two firefighters, this woman would have been out of the house a lot sooner. She might have been alive. She might have been here telling this committee the same thing. Amend this bill or scrap this bill or do whatever, but it is not right that we're running around with empty seats on fire trucks or understaffing in the firehalls.

Kirk and Glen followed the hose line in, but they only had to go about five feet and they came across the woman, Lynda. It was probably a matter of two seconds and the radio report came back to me, "We've found her." The thought has run through my mind hundreds of times since this fire, on almost a regular basis, that had those two empty seats on my truck contained the firefighters who should have been in them, then these teenage children who were there on the sidewalk might still be able to feel their mother's hugs. They might have been able to seek her advice on their problems and concerns, or any of the other things that normal families do, but they can't do that now.

I blame understaffing of the fire stations and understaffing of fire trucks with the delay in finding and rescuing this woman. It was only a matter of a few minutes until that second team was sent into the burning structure but that few minutes may have caused her death. She died at the hospital from the consequences of the fire a few hours after the firefighters brought her out of the house. I'm convinced that if we had had firefighters occupying those empty seats on the fire truck when I arrived at this house fire, then we would have found this victim one to two minutes sooner and she might have been here today.

The understaffing of the fire department and fire vehicles in the city of Sarnia has finally been recognized by members of our community, the media and the municipal council. Thousands of citizens of our community have signed petitions and voiced their concern to councillors and to our local politicians to correct this understaffing.

The local politicians have recently approved a resolution to maintain the necessary fire stations and hire 24 additional firefighters — that's almost 30% of our department — to provide the adequate rescue and fire attack teams that the people want, that the people are willing to pay for.

However, parts in this Bill 84 that's now before us are being cited as a reason to thwart this hiring and the maintaining of an adequate number of firefighters to provide an effective fire service and provide an adequate level of fire protection to the citizens of my community. The people want adequate fire protection. The people want and are willing to pay for adequate fire protection; fire protection that is provided quickly, effectively, by an experienced team of well-trained firefighters. The government shouldn't get involved in reducing or compromising what the people want and are willing to pay for.

One or two of our local aldermen have cited parts in the government's Bill 84, such as part-time firefighters, as perhaps the answer to our understaffing problems, but the front-line firefighters in my municipality know part-time firefighters are not the answer. We don't want untrained and certainly inexperienced firefighters backing me up or being on the trucks, responding to fires.



1230

Calling in firefighters during an emergency after the alarm has sounded, that's not the answer, because that only provides for slower response times to emergencies where life can be saved or deaths can occur.

I could relate numerous other incidents, events where the quick response and fast action by experienced firefighters saved peoples' lives or drastically reduced fire damage in my community: a recent Beaver Lumber store fire on London Road where the full-time firefighters arrived quickly and raised a telesquirt — for people who are here, that's a mechanically operated ladder with a nozzle that's attached to it. They extinguished a very large fire that had started on the roof of a local building retailer. That fire occurred in early December 1996, just a short while ago, and the quick response and action by the experienced firefighters saved a very busy business.

The firefighters' quick action minimized the business interruption, it minimized the dollar loss, and in the process saved a lot of jobs through the Christmas season. The owner of the business and his employees were indeed grateful and thankful for the quick and effective response and instinctive actions of the experienced firefighters that saved damage, minimized the loss and protected their livelihood. Calling in firefighters after that alarm had activated would have slowed the response and resulted in increased loss.

Under Bill 84, I can't be certain that we would have been able to perform this kind of effective firefighting. The second truck into this Beaver Lumber fire was staffed with four experienced firefighters who knew instinctively what to do, and they reacted quickly and effectively. I'm not certain that inexperienced and possibly untrained part-time firefighters or that a mixture of part-time and full-time would have reacted in the same manner, as quickly or as effectively as this team of professional firefighters did.

In concluding my comments, we're not saying to tear up the bill or delete part IX. We're asking the government to make some reasoned amendments to protect the safety of our community. We're asking you to stand up for public safety by going back and telling the government that Bill 84 has serious problems. The bill was written in too much of a rush. There are errors and oversights in the bill, and however well intentioned that bill may have been, it has negative effects on public safety. We need you, and are depending on you, to tell them how to fix the problems we all know are there.

Finally, I want to thank the committee for taking the time to listen to my presentation. I know there is a lot of public concern about this bill. There is also appreciation for the work that this committee is doing, both now and after the hearings, to fix the problems in the bill. It's not an easy job and I thank you for doing it.

**The Chair:** Basically, our time has elapsed. I would thank you very much for relating the problems you're having in Sarnia and your questions in regard to Bill 84.

#### COMBER AND DISTRICT FIRE DEPARTMENT

**The Chair:** Our last presentation of the morning will be Comber and District Fire Department, Bob Miner, deputy fire chief. Good afternoon.

**Mr Bob Miner:** Thank you sir. It is an honour and a privilege to come before you. I appreciate having the opportunity to address yourself and the balance of your committee. Unfortunately, I personally have some problems that prevented me from having my presentation typed for you today, but I will have it typed and given to you after, as soon as I can have that done.

My name is Bob Miner, and you spell that with an "e," and yes, I am related to Jack Miner. He was my great-uncle. I am an insurance broker by profession. My wife and I and family operate a multibroker insurance office in Comber, 30 miles from Windsor, right on the 401.

One of several of my avocations is being a volunteer firefighter for the Comber and District Fire Department. By the way, this presentation, I hope I can read it in 12½ minutes to give you a little time to ask any questions. I am on call 24 hours a day, seven days a week, and if that's not being full-time, I'll eat my hat.

I have now served my fellow citizens and communities for over 40 years. I have been the deputy chief in our department for 23 years. I am and have served as one of the founding members of the Windsor-Essex County 911 Technical Committee. I am one of the five chiefs appointed by the local fire coordinators during their tenure, originating with Chief Cecile — by the way, all these men are chiefs of the Windsor Fire Department — Chief Earl Turpin-Carroll, and Chief Fields.

We have been instrumental in convincing the CRTC to allow the billing for enhanced 911 to be billed on the telephone bills; that's in both Ontario and Quebec. We have been instrumental in house numbering and number signage on county roads, and the names on signs at all roads in Essex county. We have coordinated the enhanced 911 program along with all of the police services and ambulance services in the area, all serving on that committee.

I am one of two Ontario fire chiefs — by the way, a deputy chief is considered a chief too, so I consider myself a chief — serving on the Ontario Association of Fire Chiefs water supplies committee, since 1988.

The Comber and District Fire Department devised and perfected a water-tanker shuttle system of its own, which provides 200 imperial gallons per minute for a period of two hours, within a five-mile radius of our firehall; 200 gallons of water per minute is the required gallonage of a fire hydrant for the hydrant to be an approved source of firefighting water. This extends hydrant recognition from 1000 feet to a five-mile radius.

We performed a test in October 1988 for the Fire Underwriters Survey people. It is a firefighting inspection group funded by the insurance industry. They used our methodology to establish the standards for a completely new fire protection classification for the rural areas in Canada. Comber and District Fire Department was the first fire department in North America — and for that matter, the world — to receive that certification. We actually provided 650 imperial gallons per minute for the period of two hours, with the assistance of our neighbouring fire department.

Many fire areas across Canada now are water-tanker-shuttle certified and that goes across Canada, British Columbia included. Many insurance companies provide



an average annual reduction of approximately \$150 on their insurance rates for their homeowner's policy, and that's within that five-mile range. That is the same rate that is charged city dwellers.

The Ontario Association of Fire Chiefs water committee was instrumental in having the Fire Underwriters Survey people recognize dry hydrants as a hydrant source of water for fire rating. A dry hydrant is a pre-existing standpipe connected to a lake and river — of which we have lots in Canada — from which a fire department can pump water at 200 imperial gallons per minute for the two-hour period. They too are now being installed across Canada, for a saving of \$468 per year on the average homeowner's policy, which is the difference between having a fire department with a hydrant and not having a fire department.

1240

The OAFRC water committee is keeping the OAFRC informed as to the testing results of a new-technology firefighting unit which the Windsor and Essex county fire departments have purchased; the insurance brokers have done that. It provided the funding of \$10,000 towards that. Windsor has agreed to host that testing. That particular unit is purported to provide fire suppression to the extent of nine times, so that would make one gallon of water equal to nine gallons of water for fire suppression.

I welcome the opportunity to come before you to encourage you to remember in your deliberations on the wording and stipulations of Bill 84, which you now will be recommending from these hearings, that it must allow for and in fact encourage as well as accommodate the part-time and/or volunteers in the fire emergency forces in Ontario.

The Ontario fire marshal's office provided the following statistics in December 1996. There are 600 municipalities in Ontario. There are 26,000 firefighters in Ontario, 9,000 of whom work full-time or are better known as career firefighters, in 34 fire departments, leaving 17,000 as volunteers or part-time in Ontario. These volunteers save the Ontario taxpayers well over \$1 billion per year.

We must not allow the emergency service providers to be personally penalized, either psychologically or financially, for coming to the aid of their fellow citizens when no one else will. Remember, emergency service providers are always going to a disaster, risking life and limb, while all others are fleeing in the opposite direction.

I am presently advocating that the Occupational Health and Safety Act be changed to remove the portions of that law which:

(1) Make persons charged for contravention of the act automatically guilty. They are not presumed innocent until proven guilty; they must prove themselves not guilty. This is the only law in Canada that does not presume innocence until proven guilty.

(2) Once charged, any levies or fines are the personal responsibility of the charged person. No insurance can be purchased to compensate them for that.

In the Port Colborne incident a few years ago, the fire chief and deputy fire chief faced being personally fined half a million dollars each. That went to the Ontario government.

If the Ontario Occupational Health and Safety Act cannot and will not be altered, I suggest that you must amend this bill you are presenting so that the penalties section of the proposed act protects the fire chiefs and firefighters from personal financial penalties, and its protection must supersede all other acts of the Ontario government.

I appeal for your support in my submissions to Premier Harris and to the Honourable Elizabeth Witmer, Minister of Labour, to change the Occupational Health and Safety Act.

Recently, certain public statements made by and/or issued by certain people or groups of people have indicated that volunteers and/or part-time firefighters are not properly trained nor capable nor do they meet proper standards. I submit to you that these statements are not true. Frankly, as a volunteer, I resent these accusations. We're not stupid, nor are we ill trained.

In 1990, Bernie Moyle, prior to his appointment to the position of Ontario fire marshal, introduced the Paradigm of Progress program to the OAFRC, one of the 12 general areas addressed in the Ontario firefighters' standards.

In 1990, under the guidance of Bernie Moyle, then an Ontario fire chief, a standard training program was established, and now all firefighters, both career firefighters and volunteers, are training from a common course and study books — and this is, by the way, one of a library of them — and they are being produced and published by the International Fire Service Training Association, which is affiliated with the Oklahoma State University.

All career and volunteer firefighters, in many degrees, study identical educational information. We do not have to write any compulsory exams. However, if we wish to be certified in any of these study modules, we must pass the same exams produced by the Ontario fire marshal. The certification is recognized by any fire service, I suggest, throughout the world. It is my experience to date that most volunteers welcome this opportunity to have recognition for their training and to be able to prove it. By the way, none of our 26 volunteers are doctors, but we are all certified to operate our defibrillator.

I charge you all, as well as the whole Ontario government, with the responsibility of producing a well-balanced law. It should and must preserve one of the best emergency firefighting force networks in the world, both full-time and part-time. It must provide the avenue to proceed onwards to greater heights, for the safety of the citizens of Ontario. Remember, most of the area in Ontario is protected by volunteer fire departments, and approximately two thirds of the firefighters in Ontario are volunteers.

**The Chair:** Thank you very much, Fire Marshal Miner, for your presentation.

**Mr Miner:** Deputy chief, sir.

**The Chair:** Deputy chief.

**Mr Miner:** I got a promotion there, a big one.

**The Chair:** My mistake. Thank you very much for your attendance here today.

We're still running late, of course. I'd ask you to be here at exactly 1:30. We will recess till 1:30 and then start our afternoon sitting.

*The committee recessed from 1249 to 1340.*



LONDON PROFESSIONAL  
FIRE FIGHTERS ASSOCIATION  
WINDSOR FIRE AND RESCUE SERVICES

**The Chair:** Good afternoon, ladies and gentlemen and members of the committee. If we may proceed, our first presenter this afternoon will be on behalf of the London Professional Fire Fighters Association. Is a representative of the association present? Welcome. I would ask you to identify yourself for the purposes of Hansard and proceed with your presentation.

**Mr Ron Vermeltfoort:** My name is firefighter Ron Vermeltfoort of the London Fire Department. Chief David Fields of the Windsor Fire Department will be leading our presentation.

**Mr David Fields:** Mr Chairman, members of the provincial Parliament, ladies and gentlemen, my name is David Fields. I am fire chief of the city of Windsor Fire Department. I've been in the fire service for 30 years this year; I have had 14 years' experience with the Windsor Fire Department as a firefighter; I had nine years with the office of the provincial fire marshal out of Toronto; I had five years as a deputy fire chief in the city of Nepean; and in 1994 I returned to the city of Windsor after competing for the position of fire chief and was appointed fire chief in January 1994 in the city of Windsor. I make my comments to you based on these 30 years of experience.

My role as fire chief in the city of Windsor is to develop and recommend fire protection policies to the corporation of the city of Windsor council and to manage and lead — I'd like to emphasize that — the fire rescue services provided by municipal council.

In front of you, you have a package and I am going to cover a portion of this package. The deputy fire chief of the Windsor Fire Department will address you later on and support some of the other materials in that package.

I'd like to explain to that you the Windsor Fire and Rescue Services is comprised of 278 men and women dedicated to providing quick, efficient and quality service to the community. This service is delivered through the following divisions of the department: (1) fire rescue; (2) risk management or fire prevention; (3) emergency communications; (4) apparatus and equipment; (5) training; and (6) planning and support, otherwise known as administration.

Our mission in the department is to protect the lives, property and environment of the citizens of Windsor and surrounding communities by providing high-quality emergency services, which include an excellent fire prevention and public education program and arson investigation. Our mission is also to provide a firefighting force capable of handling emergencies, which may include structural firefighting, hazardous materials mitigation, rescues, miscellaneous emergencies, medical emergencies and catastrophes.

In this part of the program I'm going to stop right there. I'd like to allude to the back of the package. There are some support materials that I think will be very helpful. As a matter of expediency, because of the time we have, you'll find a letter in support of this package to the Honourable Robert Runciman, Solicitor General and

Minister of Correctional Services, re Bill 84, the Fire Protection and Prevention Act. It's dated February 7, 1997, and I ask you to peruse that. It highlights in detail some of the problems I would like to mention today with Bill 84, in case I don't get the time, and obviously won't have the time to go into that great detail.

I am going to try to indicate to you that the major issues I have concern with are issues concerning part-time firefighters, privatization, labour relations, unclear definitions and the lack of regulations. That's going to be the bulk of my presentation today.

In your package and behind the support material that we sent to Mr Runciman, the next one is correspondence that I sent to Mr David Ramsay; it was concerning privatization. I ask you to give that attention. I've tried to capsule my problems with privatization of fire services and I won't bore you with all the great detail, but those points are very important.

I end those points by saying: "Public fire departments render value-added service to the community through the volunteer participation of their members in community activities as well as financial contribution to community-oriented groups and projects."

"Public agencies anticipate growth and provide services prior to full occupancy while private companies endure... risk until it is profitable to provide the required protection."

There are several other bullets. I wasn't trying to be overly critical, but I say in my final paragraph: "If one can make a case for privatizing the fire service then one can make a case for doing away with government altogether and relying on the benevolence of the private sector for self-regulation and delivery of all services." I firmly believe that and I ask you to read that part of the package.

Next to that I have correspondence from the International Association of Fire Chiefs, of which I am a member. On the second page of the international fire chiefs' correspondence from executive director Garry Briese: "We believe that the fire service, as it is currently organized, can provide a cost-effective and cost-efficient service to the citizens of the communities they serve. We also believe that this goal can be best obtained through the development of a new relationship between fire service and labour management...the development of a fire service leadership partnership."

It is that part I would like to discuss with you. I believe part IX needs to be taken out of the legislation, totally revamped. It creates an adversary model of a relationship that has no place left in the fire service. If we're going to have new and modern legislation, we should have new and modern legislation to lead us into the next millennium, not have labour-management models that reflect the 1950s.

If you look at the Fortune 500 companies that are successful, it's people doing things with people. The fire service is about people doing things with people. Maybe not when it first began hundreds of years ago; it was very terrible. The service wasn't quite the science that it is today and people struggled with saving property, as we still do today. But a modern fire service — and I'm going to point to a modern fire service when I describe the

Windsor fire service — is about people serving people, and this is what I'm most concerned about.

Under the existing legislation, and prior to anything to do with Bill 84, the Windsor Fire Department reorganized three years ago and decided to venture into a management-labour partnership, and we've done that. We were probably the first fire department in Canada to do that.

We took the example from the International Association of Fire Chiefs and the model from the United States and we met with our firefighters' association — it's attached in the package. We have 10 principles of management. We have shared partnership and leadership with this fire department. Because of that, over the past three years the fire department has experienced unprecedented increases in productivity. Part IX of this bill will not produce any of these results. In fact, it will do just the opposite.

The expansion of public education from a program that was incidental to fire prevention code enforcement and inspection activities to an extremely effective, high-profile community activity serves as a shining example of the commitment and dedication of time by the members of the department.

Coordinated by a recently appointed public education officer and with the support and cooperation of the Windsor Professional Fire Fighters Association, programs such as Learn Not To Burn, the Fire Safety House and the adopt-a-school program were introduced. In addition to their regular duties and expanded training requirements, the members of this department attended schools in their stations and districts to deliver and support the programs. The time did not end with the school day or the school year. On weekends and during the summer months, firefighters attended countless community events to bring the fire safety message to the community.

1350

Our smoke alarm giveaway is another highly effective program in the municipality. Yes, we can prosecute people for not having a smoke alarm, and we all know that, but in the end does that serve anything? We're still dragging too many little babies out in the middle of the night. The firefighters, with the support of their community, by getting the public to support this financially, go in and put smoke alarms where they're needed. All you have to do in the city of Windsor is pick up the phone and one is provided, no questions asked. They're on every fire truck, they're in every fire station and they're provided free of charge.

We have reduced our risk, we have reduced our life loss and we have reduced our fire losses because of this proactive program. We have city councillors, other departments, members of the community who assist us, who walk and knock on doors and encourage people to use this program. It's a non-threatening program, it's free, and "We're here to serve you." It's people serving people.

Fire Prevention Week in Windsor has become a high-visibility event within the city. On-duty and off-duty firefighters, at no cost to this community, spend the better part of each day of that week delivering the fire safety message to the people of Windsor and making them more familiar with the services and equipment of the department and how to be fire safe.

In addition to providing public education services to the community, we've expanded service to the citizens in other areas. Just over a year ago, the department began providing medical assistance in cooperation with the Windsor provincial ambulance, carrying semiautomatic defibrillators. Again, this wasn't levelled by taxation, this was supported by public donations and the firefighters volunteering their time to train in a full-time fire department, probably opposite to what you've heard. We offer this service as an increase in productivity to the fire services in the city of Windsor.

In the past year the department has been addressing the deficiencies in hazardous materials response capabilities. Once again, members of the fire rescue division volunteered to become qualified to train the entire department to an appropriate level. Decisions by the office of the fire marshal and the Ontario Ministry of Labour had made it mandatory that specific training was required for any first responder and this training be in accordance with national fire protection standard 472.

At this point in time, after 10,000 staff hours of training, the entire department is up to the operations level of HazMat, and we have six members of the department who are up to the hazardous materials technician level and are proceeding further.

The following list is an outline of further activities that are in the research and/or training development stage in a manner similar to first aid and hazardous materials:

Your fire departments provide high-angle rescue services, which you saw today, people rappelling from this building;

Confined-space rescue — people work in confined spaces, they get in trouble and they need help;

Auto extrication in auto accidents;

Water and ice rescue — you can just look out the window and see the need for that;

Marine firefighting operations — we have the first marine casino in Canada. That was quite a complex deal for us; we had to develop marine firefighting capability to protect our visitors participating at that casino;

The incident command system for greater fire ground management;

Personnel accountability system for the safety of firefighters deployed at the scene of emergencies;

Fire codes, standards and bylaws;

Fire investigation;

Fire cause determination.

All these things take a lot of time. The Windsor Fire Department has a master fire planning document and all the subcommittees in that document are served by firefighters. The firefighters volunteer their time, many of them off-duty hours, to make recommendations to the fire chief for the implementation of the plan and adoption by council. Our fire officers meet and spend considerable hours off duty. At the last district chiefs' and captains' meeting we had, of 32 members attending only two were on duty. This is all off duty, and they volunteer their time in order to have this input. I'm trying to give you a picture of what cooperation and joint management and leadership can help and do in this city.

I have worked under other systems. I've worked under the adversary system; I've been president of a fire-



fighters' association and had to present at boards of arbitration; I've been head of a grievance committee, and I've been on the other end, receiving grievances. It's not a great way to go. We waste a lot of energy and time not doing what we're supposed to be doing.

I'm saying create a model. Let this government share and give leadership to its citizens and to its fire service and create a model that all of us can allude to and have and share in that would help us get on and serve. People serving people, that's all we are; our family serving your family. It doesn't change. It doesn't get any better than that. That's what it's all about and this is why we're here today.

We have very, very dedicated firefighters. Bill 84 threatens to build roadblocks to the successful continuation of these activities by shifting the focus from people to processes, from harmony to turmoil, from cooperation to confrontation.

Progressive organizations in the fire service recognize the distinction between management and leadership. Many of these organizations have taken to actively promoting these concepts throughout the fire service. The International Association of Fire Chiefs says that the goal of cost-effective and cost-efficient services to the community can best be obtained through a new relationship between labour and management, the development of a fire service leadership partnership.

I hope I've demonstrated that this is one fire department that wasn't sure, so we tried it, and it works. It's better than the other system, and our public is gaining and benefiting from that, and so am I as a fire chief, and so is this council. The management of the Windsor Fire and Rescue Services applauds the International Association of Fire Chiefs for its positive leadership in this regard.

People and the fire service: The fire service in Ontario is and should be people-based. The protection of lives, homes, property and general safety of persons in our Ontario communities is the object of our service delivery. The fire service is about citizens who are receivers of this service. They're our customers. We need a customer-focused type of service. They're old, they're young; they're healthy, they're infirm; they're employed, they're unemployed; they're rich, they're poor; they're homeowners, landlords, tenants, homeless; they're business owners, they're corporations, they're shareholders.

We've got some other folks in this, and they are the firefighters, the deliverers of the service. They're young and old; they're recruits and veterans; they're probationary up to first class; they're fire inspectors, communicators, operators, support staff, training officers, company officers, senior officers, fire chiefs and deputy fire chiefs.

We have governments and agencies that are providers and supporters of this service, and that is the Ontario government, the Solicitor General, ministry staff and advisers, and mayors and members of municipal councils.

While not specifically mandated, the provision of fire service is certainly something that is demanded and expected by the customers across this province. At this basic level, the fire service is how one group of people, funded and properly supported, provides service to another group of people.

I'm here to ask you to make changes to this bill, to not let Bill 84 stand, so that the focus in providing that service is that it should be quick, responsive to needs, uninterrupted, delivered skilfully, and valuable to the community.

**The Chair:** Thank you, Fire Chief Fields. Our time has elapsed. We thank you on behalf of the committee for an excellent presentation.

#### OCCUPATIONAL HEALTH CLINIC FOR ONTARIO WORKERS

**The Chair:** There will be a switch. We will proceed to our scheduled 1:30 presentation now, Dr Deborah Hellyer and Jim Brophy. I apologize for the delays, but fortunately you're on, so please proceed.

**Mr Jim Brophy:** I wish to begin by thanking the committee for allowing Dr Hellyer and me to speak with you about Bill 84 and its implications for the health of firefighters in Ontario. If it suits the committee, I will start and Dr Hellyer will conclude our presentation.

My name is Jim Brophy. I'm the executive director of the Occupational Health Clinic for Ontario Workers in Windsor and I'm also a panel member of the Ontario Occupational Disease Panel. In both of these capacities I have had an opportunity to examine the risks and the potential hazards faced by firefighters in the course of their duties.

Everyone knows that firefighting is a dangerous profession. Racing into a burning building requires courage and a great deal of training and knowhow. Firefighting requires a large investment if the firefighters are going to be able to perform their duties safely and protect the public's health and property. Either allowing the fire departments to hire part-time firefighters or privatizing our fire services risks the health of firefighters and possibly the community at large.

#### 1400

Firefighting as an occupation requires a very high level of teamwork and mutual understanding and respect. To perform their duties safely, firefighters need to know that the other people in their crews are well trained and knowledgeable. Each person counts on their co-workers to protect and support them. That sense of trust and teamwork requires time and understanding. To threaten this cultural component of their work holds serious ramifications for their safety.

As a member of the Occupational Disease Panel, I was involved in a major process that examined the potential health risks faced by members of the firefighting profession. We issued a major finding titled Report to the Workers' Compensation Board on Cardiovascular Disease and Cancer among Firefighters.

It was shocking to learn about the wide array of diseases that firefighting poses for the health of these people. In 15 epidemiological studies of firefighters, only three did not find excess brain cancer. Firefighters in Toronto, for example, had a statistically significant twofold excess of brain cancer. Six other studies found excess brain cancer ranging from twice to almost five times the expected.

Firefighters also bear an excess and disproportional cancer burden in other sites — lymphatic and blood cancers such as leukaemia. Out of nine health studies of firefighters, a strong association was identified in six studies, ranging from as high as two and a quarter times greater than the rest of the population.

Benzene is a known cause of leukaemia. After carbon monoxide, benzene is generally the second most commonly found organic constituent of fire smoke, typically present in high concentrations in the fire environment. Bulk samples performed at various fire scenes found concentrations that were two to four times the current Ontario limit.

Measurements of individual samples were as high as 16 times this maximum allowable concentration. A recent study shockingly found benzene in excess of the legal limit inside the self-contained breathing apparatus of firefighters. In addition, the ODP reported a probable connection between firefighters and cancer of the colon, bladder and kidney, as well as certain other cardiovascular diseases.

To prevent such disease requires a strong commitment to extensive training and a real investment in state-of-the-art personal protective equipment. These steps only make rational economic sense if we have a stable, well-trained firefighting workforce that is linked and monitored from a provincial body that ensures that every firefighter has the training and equipment required to perform their jobs safely.

Certainly firefighting, which is an essential public service that all of us need and support, should not be weakened. As a society, we don't expect that the protection of our lives and property should be paid for by an increased risk to firefighters because they do not have the tools they need to prevent injuries and disease.

As a public health advocate, I believe that firefighters need more training and protection, not less. As a citizen in this community, I want to be assured that firefighters are fully prepared when and if a time ever arises that they need to protect me and my family from harm.

**Dr Deborah Hellyer:** My name is Dr Deborah Hellyer. I'm a respirologist or lung specialist and I've been living in Windsor for the last 13 years. I would like to thank you for this opportunity of speaking to you. I generally only come out and speak on issues that are really important to me, and this is something that I really feel strongly about.

When I initially came to Windsor, I came as an intensivist. I was responsible for looking after patients who required intubation and ventilation in the critical care units. One of my duties was going up to the burn unit, and I would look after patients who required intubation and ventilation who had extensive burns to their bodies and smoke inhalation. Often these patients would have 90% to 95% third-degree burns. Miraculously, these patients survived, and they survived for only one reason. That was because of the combined efforts of not only the firefighters in Windsor, but also the technology that was supplied by the burn unit, which is fully funded and supported by the firefighters here in Windsor.

I quickly learned to respect the rapidity with which fire destroys. It's very indiscriminate. It doesn't care who it

kills or who it maims. It will kill a child or an adult very quickly. The only way we can fight this is by providing very rapid response and early prevention so that fires do not occur.

I also learned about the narrow window of opportunity that the firefighters have in fighting a fire and rescuing people. It's important that they arrive there quickly, that there's enough firefighter manpower to go in and actually fight the fire. It's important to get the person out quickly and to know what to do when any injuries occur. There's a very narrow opportunity for them to actually change a potential victim to a survivor of a fire.

In the past five years I've altered my practice somewhat. I'm now doing predominantly occupational lung disease. Subsequently, I have now seen the health effects that can occur with firefighters who have worked for many years in the firefighting field. Mr Brophy has reviewed many of these and I'm not going to go over these again.

This illustrated to me the importance of experienced professional workers who are really informed about the potential hazards. They know what they can expect when they go into a building. They know the appropriate precautions to take. They have the most up-to-date technological equipment available to them so that they can protect themselves and also protect the people they are rescuing.

Adequate firefighting means rapid, knowledgeable response with appropriate technological support and equipment. We have been rather fortunate in Windsor in that we have had this available to us. I am concerned that once privatization occurs, this is something that will not be consistently met throughout all communities.

The firefighters have become an integral part of our rapid emergency response team. They are trained in cardiac assessment, cardiac defibrillation and CPR. As part of this, if they are first on the scene when somebody is injured or if somebody has had a cardiac arrest, they know what to do, and lives have been saved because of that.

They have also been very visible in our community. As I mentioned before, they have done much for our burn unit. They have provided preventive measures; they speak to children; they let them know the importance of smoke detectors and how to quickly leave a building.

Health care trends are going more and more towards prevention and I think this would be truly lost if the firefighters became privatized. I have been vice-chair of the district health council and over the last five years we have been involved in the integration of health services. We are developing partnerships; we are developing liaisons so that we can provide better health care for the community. We do not need fragmentation of services, and this will occur.

My major concerns are with regard to the complexity of the fires that we're now seeing. With 10,000 new chemicals being introduced each year into industry, you have to have people who are aware of the potential exposures. You have to have standardization in firefighting. You have to have regulations. You have to have importance with regard to health and safety.



For all the above reasons, I feel it's important that we have consistency of training requirements, standards for health and safety, maintaining technological advances and maintenance of community education. I would really urge that Bill 84 be reassessed with regard to those aspects.

**The Vice-Chair (Mr Ron Johnson):** Thank you both for your presentation. One minute per caucus, starting with the Liberal caucus.

**Mrs Papatello:** Thanks so much for coming today to speak to us about your concerns with the bill. You acknowledged up front that the Windsor council locally is very supportive, likely will always oppose privatization and did so in terms of its resolution passed the other day.

We see there's a different story in Sarnia, however, where they had support and unfortunately the mayor could not hold the rest of council to give appropriate levels of firefighting in terms of the hiring they were to do. Moreover, what we are looking at is an increase in taxes happening in Sarnia today because of the dumping of provincial costs on to the municipalities.

Dr Hellyer, you said that even if we're okay here, we have to be concerned that there are appropriate standards across Ontario in every community that faces chemical exposure. All these are not just Windsor issues; it's our concern to change things for the rest of Ontario.

In the face of Sarnia, as an example, increasing taxes as it is, how much longer can we expect that Sarnia will have to look seriously at a provision given to it by the Conservative government to privatize because it can't afford the dumping that the government has given to it — and it is already obviously not on side in keeping an appropriate standard of firefighting —

1410

**The Vice-Chair:** Mrs Papatello, I'm sorry, we're out of time. You just had one minute.

**Mr Bisson:** To both of you, and specifically to Mr Brophy, I'm a big fan of what used to be the ODP. I come from a mining community and was involved for many years in getting the compensation board to recognize industrial diseases for miners recognized as part of the act, because what that does is force employers to start addressing the problem, therefore trying to eliminate some of the risks that the workers find.

I acknowledge the work that you've done on the ODP in regard to firefighters. It's quite a tragic thing that this government has decided to basically kill the ODP, which means to say all the gains that firefighters would have made, that miners made not more than four or five years ago, are basically gone.

I think that's one of the big tragedies of this government. They just don't want to listen to people who know what the heck they're talking about when it comes to some of these issues. I want to thank you on behalf of those who care about this, about the work that you've done. I'm aware of the work that both of you have done on this. Thank you.

**Mr Ed Doyle (Wentworth East):** Thank you very much for your presentation, which was very informative. I do want to point out, however, that under Bill 84 — I seem to get the impression that you thought this would automatically lead to privatization, which isn't necessarily the case. Under existing legislation privatization can

happen in any case. In addition to that, under Bill 84, prevention and education are mandatory under this bill.

**Mrs Papatello:** On a point of order: The government members have an obligation to give the facts, not fabrication.

**The Vice-Chair:** Mrs Papatello, that is not a point of order.

**Mrs Papatello:** Mr Doyle, you are required to tell the facts when you sit on this committee.

**Mr Doyle:** I wish you would tell a few facts. I've heard some of your facts over the months too.

**Mrs Papatello:** The facts are, privatization currently is not allowed in legislation.

**The Vice-Chair:** Guys, listen, this is my last day.

**Mrs Papatello:** You are obligated to tell the truth, Mr Doyle.

**Mr Doyle:** Why don't you try a little of that yourself?

**Mrs Papatello:** Mr Doyle, you're obligated to tell the truth. The legislation as it is today does not allow for privatization. It encourages the employer to be only the municipality. Your bill is changing that.

**Mr Doyle:** You can still privatize today.

**The Vice-Chair:** Thank you both for your presentation. The next presenter is Mr Walter McCall.

**Mr Kormos:** Chair, on a point of order: I'm disturbed by Mrs Papatello's concern. I read in the paper that Bill Murdoch, a deposed PA, says you have to kiss ass if you want to get ahead. Mr Doyle was only puckering up.

**The Vice-Chair:** We're already running behind, and if we could move ahead with the agenda it would probably help us get through.

**Mrs Papatello:** On a point of order: If we could indulge legal counsel, the research officer, the clerk, someone, to confirm for me, right away if possible, that in the bill — this is very important — subsection 41(1) under "Definitions" has been changed to include, "'employer' means a municipality, person or organization that employs firefighters," and that in fact is a change from the current legislation as it is. Can you have the clerk confirm that immediately?

**The Vice-Chair:** Mrs Papatello, we will ask ministry staff to get us that information and it will be presented at the earliest convenience.

**Mrs Papatello:** We need it right away.

**The Vice-Chair:** You don't need it right away. It has nothing to do with the presentation that's coming forward.

**Mrs Papatello:** It has everything to do with Mr Doyle's comments, which are false.

**The Vice-Chair:** Mrs Papatello, I have ruled on your point of order. We will get you the information. We will now move on to our next presenter.

**Mr Bisson:** Chair, point of order.

**The Vice-Chair:** Is it same point of order? I've heard it.

**Mr Bisson:** It is a point of order. The people responsible to this committee are the clerks of the committee and legislative counsel. I want that information from legislative counsel, not the political staff of the minister responsible.

**The Vice-Chair:** We will have that information provided to the committee.

## WALTER McCALL

**The Vice-Chair:** Mr McCall, I apologize for the delay. You can begin any time.

**Mr Walter McCall:** What an act to follow. Thank you, Mr Chairman. Good afternoon, ladies and gentlemen.

I'd like to begin my remarks by expressing my gratitude for this opportunity to address this important public forum. As a lifelong fire buff and probably the only person in this room who owns his own fire engine, an ardent admirer and supporter of the fire service, but and even more important as a resident, property owner and taxpayer of the city of Windsor, I have serious reservations about some of the fundamental changes to the fire service which could become a reality with the passage of some portions of the Fire Protection and Prevention Act as now proposed.

While some of these changes are welcome and probably long overdue, particularly in Bill 84's public education and fire prevention components, other contemplated changes which could negatively impact the quality of basic firefighting services in this province are cause for real concern.

I'm speaking specifically about the potential understaffing of fire stations and apparatus, the use of part-time firefighters and the truly ominous prospect of the privatization of municipal fire departments.

My home here in Windsor is less than a mile from the nearest fire station. I frequently hear the pumper and rescue squad quartered at station 3 responding to alarms. I have always experienced a sense of real confidence knowing that both of these units are manned by the required necessary number of highly trained professional firefighters, to whom the minimum response time is everything. If for any reason manning falls below the carefully considered minimum, the apparatus is simply taken out of service.

As it stands, Bill 84 would allow municipalities to reduce fire station staffing, calling in additional firefighters only on an as-needed basis. I don't have to tell anyone in this room that this shortsighted policy is not only risky, it borders on folly.

Rapid response to an emergency and an adequate number of personnel to take action and operate the equipment are the basic requisites of this most vital of public emergency services. In addition to quick, decisive, sound judgment on the fire ground, it takes hands to stretch hose, raise ladders, ventilate a building and rescue or treat trapped or injured citizens or firefighters.

A fire can quickly mushroom out of control and lives can be lost waiting for additional help to arrive. Under Bill 84, extra manpower would be summoned only when it's already too late. A rapidly spreading fire is one thing. You can't wait when lives are at stake. There's a world of difference between the arrival of a second-alarm engine and calling in firefighters who may have to respond from a number of separate locations at varying distances.

Bill 84 would permit a mixed force of full-time professional and part-time firefighters. There's no substitute for the education that comes only through long experi-

ence — experience gained not just through arduous training and retraining, but also the experience that comes with years of exposure to countless fire and emergency situations.

While I have the greatest admiration for the commitment and dedication of volunteer firefighters everywhere, there is simply no comparison with a regular urban firefighting routine. As for the volunteers, don't forget that every metropolitan and urban fire department in this province and virtually everywhere else started out as a volunteer force.

Under Bill 84, full-time firefighters could be replaced with part-time employees who simply don't have the same level of training and experience. The teamwork so essential to effective firefighting could be compromised with sharply varying degrees of skill and experience in what should be a close-knit fire crew.

Then, of course, there's the spectre of privatization. If passed in its present form, Bill 84 could permit profit-driven US companies to provide municipal or district fire protection on a contract bid basis. This prospect is the most frightening of all.

Private for-hire fire departments simply have not worked in the US and we'd be naïve to believe that they would work any better here in Ontario. The fear of privatization is very real. Overtures are already being made to some Ontario communities for both fire and ambulance service. The downloading of this vital municipal responsibility for a fixed cost is far too high a price to pay. A life-and-death public responsibility as basic as fire protection and emergency medical services should not go to the lowest bidder. As a taxpayer here, I certainly don't want to rely on Blazes R Us or Rent-a-Rig for the safety of my home, family, life and the lives and property of my fellow citizens.

In summary, as a citizen I'm deeply concerned about some of the fundamental changes in the level and quality of fire protection that could result from the passage of some provisions of this bill. I'm vigorously opposed to and generally fearful of any dilution or erosion of the level of professionalism we've come to expect from Ontario's firefighters. It's truly the thin edge of a wedge.

1420

I've been asked by my good friend Lorne Bradt of the Leamington fire department to present to this committee a letter on behalf of the Essex County Fire Service Association, outlining that association's concerns with the pending legislation. I have copies for this meeting, but with your indulgence I'd like to read it to you. It's fairly short, addressed to the Honourable Robert Runciman, Solicitor General and Minister of Correctional Services:

"Dear Honourable Sir:

"On behalf of the Essex County Fire Service Association Inc, which consists of 20 departments and their over 1,100 personnel, we are writing this letter to advise you that our association is not in favour of Bill 84, primarily because of the provisions of part IX of the proposed legislation and its impact upon the full-time firefighters in Ontario communities and their collective bargaining rights and agreements. In addition, there are numerous provisions within the bill that can negatively impact upon



the fire service generally throughout the province, such as the omission of mandatory smoke alarms and the definition of deputy chief and part-time firefighters. While some portions of the legislation are to be lauded for their progressive nature, in total the bill fails the fire service.

"Our association urges you to pay heed to the critical comments being made by representatives from inside and outside of the fire service in this province. It appears obvious that more dialogue is crucial if serious mistakes are to be avoided. Our association is keenly aware of the fact that any legislation that is passed will have a prolonged impact on the future of the fire service, the quality and level of its delivery to the citizens of Ontario, as well as the future of the lives of this province's volunteer and full-time firefighters.

"As firefighters we are expected to do things right and to do the right thing. Our association urges you and your colleagues in the government to do the right thing in connection with Bill 84.

"Lorne Bradt

"Essex County Fire Service Association."

**The Vice-Chair:** Thank you, Mr McCall. Moving to questions, two minutes per caucus.

**Mr Bisson:** Thank you very much for your presentation. I want to read to you two definitions and I want you to tell me what you think. Under the current firefighters act that is presently in place, a fire department is defined as: "fire department" means a fire department organized under the Municipal Act"; and "deputy chief" means the one person who has been appointed by the council of the municipality," inferring that basically this is a body that is created and controlled by the municipal council.

Under the proposed Bill 84 it says, "fire department" means a group of firefighters authorized by a municipality, group of municipalities or by agreement with the fire marshal to provide fire protection services."

Would you say the second one I read you under Bill 84 is more friendly towards privatization?

**Mr McCall:** It would seem to kind of go in that direction. I'm not an expert on legislation.

**Mr Bisson:** All right, second point: There is another definition of what a firefighter is, and I read again under this current act, the firefighters act that exists today: "full-time firefighter" means a person regularly employed in the fire department on a full-time salaried basis," and it goes on to explain what their duties are.

Under the Bill 84, it reads, "firefighter" means a person employed in, or appointed to, a fire department and assigned to undertake fire protection services, and includes a volunteer firefighter."

Would you say that the second definition under Bill 84 would mean it would include part-time and volunteers?

**Mr McCall:** That's the way I would interpret that.

**Mr Bisson:** Thank you very much.

So when you talk about not privatization, you should be more truthful about what you're saying.

**The Vice-Chair:** Mr Bisson.

**Mr Doyle:** You know very well we're waiting for a declaration.

**Mr Bisson:** You argue with the legislation. I'm tired of you guys coming here with a charade, trying to make people believe that you're not going to privatize fire departments.

**Mr Doyle:** And you know very well that under the existing legislation fire departments can be privatized; you know that very well.

**Mr Bisson:** The existing act provides for it and the current act is going to allow privatization. Get clean.

**Mr Doyle:** Quit playing up.

**The Vice-Chair:** Mr Doyle.

**Mr Bisson:** Instead of going around and sucking up to the public or to Mike Harris, be clear about what you're doing.

**Mr Doyle:** I don't need insults from a jerk like you.

**The Vice-Chair:** Mr Doyle, please. If we can move on to the Conservative questions.

**Mr Klees:** Thank you very much for your presentation.

**Mr Kormos:** I think he was talking to Mr Klees.

**Mr Bisson:** Was he?

**Mr Bob Wood:** It could have been you, Peter.

**The Vice-Chair:** Did you have any questions? Mr McCall, you ran away too early. We still have some questions.

**Mr Bisson:** Stop the charade, Ed. We're getting tired of —

**Mr Doyle:** Why don't you just shut up.

**Mr Bisson:** I won't shut up.

**The Vice-Chair:** Mr Klees.

**Mr Klees:** Mr Chair, I really would appreciate it if Mr Bisson would —

**Mr Doyle:** Give us our time.

**Mr Klees:** — calm down and allow this hearing to take place in an orderly way. I don't think this is helpful at all. With respect, I think members of this committee owe it to the firefighters and to the public of Ontario to conduct themselves in a mature way here.

I want to thank you, sir, for your presentation. For the record, I think it's important that we clarify for you that when Mr Doyle made his statement that the act currently allows for privatization, he was referring to the Municipal Act. In Ontario today, firefighting services can be privatized. People here should know that is what he was saying.

Clearly there is a change in this act redefining "employer." The purpose of that is to bring it in line with the existing Municipal Act so there is not a conflict, and for clarification. That is a fact and I think it's important that the record would show that. No one is intending to mislead anyone and to make the suggestion that a member of this committee is intentionally trying to do that is inappropriate.

**Mr Ramsay:** Thank you, Mr McCall, for making your presentation. I think it's very important that private citizens such as yourself come forward and state what you believe in regard to support for fire services.

It's very interesting, coming on your comments, that while many of our citizens in this country and in Ontario feel that government has gotten too unresponsive and too large and too costly, when we look at our fire emergency services, we maybe have to ask ourselves: "Maybe we got this right. Maybe from all the evidence we've seen in Ontario our fire emergency services in Ontario are damn good; they're right and we shouldn't play around with them."

That's what these hearings are about. This government is somehow saying we have to reinvent our emergency

services. I don't think so; we've got the best emergency services in the world here. Yes, it costs a bit of money and we have to accept that. Trying to cut costs in that area isn't going to be worth the lives or the property lost by our doing that. Yes, it's a service that costs money, but I think the vast majority of taxpayers in this province are willing to pay for it, and support both our volunteers and our full-time professionals who protect us in this province. You've made that point well and I think that needs to be reiterated for the record. Thank you for coming.

**The Vice-Chair:** Mr McCall, on behalf of the committee, thank you for your presentation.

The next presenter is Mr Richard Boufford, please. For the committee's information, in response to Mrs Papatello's request, the legal staff of the ministry is currently providing a written response for Mrs Papatello and it will be forthcoming as soon as possible.

**Mrs Papatello:** Will it be available by the end of the day?

**The Vice-Chair:** That is unclear. As soon as possible.

**Mrs Papatello:** Can I make a point, Mr Chair, while we're waiting for the next presenter? I might ask either the committee members or the Chair or in fact the parliamentary assistant that, given the comments recently made by Mr Doyle about some question as to whether the former bill and the current bill allow for privatization, it seems to be implying then that in fact your government is not intending to allow for it. My question is, would the parliamentary assistant go on record to tell us and the community here that you'll be bringing forward an amendment to Bill 84 that specifically outlines not allowing municipalities to have a privatization —

**The Vice-Chair:** Mrs Papatello, this is not a point of order.

**Mrs Papatello:** I didn't ask for a point of order.

**The Vice-Chair:** Fine. Then you're out of order now. The bottom line is that if you have questions like that and you wish to raise points, you can do it during your time with members who are presenting.

#### PATRICK MARTIN

**The Vice-Chair:** Apparently Mr Boufford is not here, but the presentation will be made on behalf of Mr Boufford, and if you could say your name for the record, sir.

**Mr Patrick Martin:** Good afternoon. My name is Patrick Martin and I'm a firefighter in the town of Wallaceburg. Mr Boufford asked me to bring his written submission with me and he apologizes for not being able to attend. He has an illness that has recurred and he apologizes.

I'll read his submission for him. I'll have to apologize for my lack of presentation. I hope I can make it through this.

"To tell you a little bit about myself" — this is of course in Richard Boufford's words — "I am a retired fire chief from the town of Wallaceburg. I have devoted my life to the fire service and feel that it is important to express my concerns about Bill 84.

"I strongly oppose any consideration of privatizing the fire service. In my many years as a firefighter and fire

chief I have seen communities in the US experiment with this idea and fail. This idea has not worked for them and it will not work for us. It is a fact that private fire departments in the US have had longer response times, poor equipment, poor training and staffing problems. I have personally spoken to people from these areas who have seen broken-down fire apparatus. They have seen fire trucks being push-started during emergencies. They have seen problems with water supply and lack of manpower on the fire ground.

#### 1430

"This is the kind of fire protection you get when the priority is profit. I know that the people of our communities will not accept this kind of "fire" service. Our taxpayers have grown to rely on their fire departments and count on them. They know what protection they have now and expect that same level of protection in the future. We know that our system works and that the private fire departments don't.

"During my years as a fire chief I have seen city councils fight for control of their budgets, for which they are accountable. So I wonder, why would a municipality give up that control? I think what makes our municipal fire departments efficient is that we are accountable to the people of our community. They own their fire service. They tell us what they need and want. We provide the best possible service for their tax dollar. We give every penny back to them" in the form of "protection, training, people and service.

"When I think of a fire service for profit, I wonder, where will the profit come from? Let's pick a number. Let's say that the fire protection in our town costs the homeowners \$10 per month per household (this figure is close). Right now our town does not make a profit providing fire protection, so how will someone else make a profit? Will they have to charge \$20 per month? The taxpayers would not stand for this. They will not pay more just so someone else can fill their pockets. So if the costs must remain the same, where will the profit come from then? Will the private company reduce staff to achieve a profit? Will they reduce training, reduce equipment or reduce maintenance on equipment to achieve a profit? Once again I ask, where will the money come from? It will surely cost the people more. As a retired fire chief I ask you, what will a private fire service do for its community that a well-run and efficient municipal fire department isn't already doing?

"My years in the fire service give me the background to see the improvements Bill 84 brings to fire prevention and education. However, don't let us take one step forward and two steps backwards. Don't make it easier for municipalities to cut the fire service.

"Given the opportunity, someone will try anything. I speak from experience when I tell you this, because upon my retirement my community attempted to have a fire department with no fire chief. It appears to me that Bill 84 has addressed that issue. I am pleased to see that. It shows you that people will reduce safety at any cost. You must change Bill 84 to prevent that from happening in the future.

"I thank you for your time. Do you have any questions?

"Richard Boufford."



**The Chair:** Thank you very much, Mr Martin. I permitted you to read Mr Boufford's letter into the record as he is ill. I don't think you should be subjected to the questions that would properly be directed to him — I think they would be out of order — but I thank you very much for your attendance on behalf of Mr Boufford.

**Mrs Papatello:** Mr Chair, may I use that time to advance a question to the parliamentary assistant, then? This is a 15-minute presentation.

**Mr Doyle:** What time? We're way behind now.

**The Chair:** Mr Boufford was not here to make his presentation.

**Mr Martin:** If I can offer an answer, I will.

**The Chair:** That's not the point.

**Mr Bisson:** Point of order, Chair: We can ask the individual a question. If he desires to respond, he can; if he doesn't, he won't.

**The Chair:** No, he's not on the agenda. The person on the agenda is Mr Boufford. He is ill. Since he was not here, we should have properly gone to the next presentation. However, I did exercise my discretion, because the man was ill. He obviously prepared something and I think he has a right to be heard, but Mr Martin is not the presenter.

**Mr Bisson:** Chair, I agree with you up to that point, but certainly we have the right to ask the question.

**The Chair:** I'm sorry, I think that's out of order. This person is not the presenter and therefore has no time. Mr Boufford had the time.

**Mr Bisson:** Mr Chair, I'd like to move a motion then. I would ask that we have the ability to ask the presenter a question if he so desires. Are you going to call the question? I've moved a question.

**Mr Duncan:** Quorum call.

**The Chair:** We have a quorum call.

*The committee awaited a quorum.*

**The Chair:** We presently have a quorum.

I believe there is a point of order from Mrs Papatello.

**Mrs Papatello:** Chair, given that some of the time was still allowed during the time that Mr Martin read the presentation on behalf of Mr Boufford, and while Mr Johnson was sitting in the chair he was not allowing me to place my question to the parliamentary assistant unless we were within one of those 15-minute periods, and since we now have about five minutes left from the last presentation, it would then be in order for me to advance a question on record to the parliamentary assistant, if the Chair will allow that.

**The Chair:** I'll allow it.

**Mrs Papatello:** To the parliamentary assistant, given that just a moment ago Mr Doyle was suggesting to one of the presenters that in fact the bill was never intended to allow privatization, could the parliamentary assistant confirm for me —

**Mr Klees:** He didn't say that.

**Mr Doyle:** That's not what I said.

**Mrs Papatello:** This in my question, Mr Doyle.

**Mr Klees:** It's absolutely incorrect.

**Mrs Papatello:** Would the parliamentary assistant confirm that this Bill 84 is intending to allow for privatization? It's a very clear question. Does the bill intend to allow privatization? Will the bill be amended to not allow

privatization? That's the only question I have of the parliamentary assistant. Could you confirm?

**Mr Klees:** Mr Chair, could I speak to that, please?

**Mrs Papatello:** It's a simple question, Chair.

**The Chair:** It's a question to Mr Wood; please answer the question.

**Mr Wood:** We are here today to listen to what people have to say. We'll be announcing our amendments early next week.

**Mrs Papatello:** What a copout.

**The Chair:** Unfortunately the member from Windsor was not here when evidence was given by the minister that in fact privatization was permitted under the former act and is permitted under this act.

**Mr Kormos:** Chair, on a point of order: That is entirely improper. You have violated the standards expected of a Chair. We've also heard from dozens and dozens and dozens of deputants, including chiefs of fire departments, firefighters, analysts, observers, that this bill paves the way and opens the door to privatization in a way that no legislation ever did. Give me a break.

**Mrs Papatello:** We've got thousands of firefighters marching on the hill because of what? One major issue is privatization —

**The Chair:** Excuse me, you are now out of order, Mrs Papatello.

**Mrs Papatello:** — and now you're choosing to deny that it even exists in the bill? You either are doing it or you're not doing it. Have the guts to say what you're doing.

**Mr Klees:** Have you read the legislation?

**Mrs Papatello:** Yes, I have.

**Mr Klees:** I don't think you have, because if you had read it, and if you understand the Municipal Act, you would know —

**The Chair:** We're all out of order. Ladies and gentlemen, we're all out of order. We're going to proceed to the next presenter.

**Mrs Papatello:** Don't come to my town and try to BS the people here. Go back to Queen's Park where you BS the people there. Don't come to my town and do it here.

**Mr Doyle:** We've got a female John Wayne here: "Don't come to my town."

**Mr Bisson:** On a point of order, Chair —

**The Chair:** You're all being silly at this point. I'm going to adjourn for 10 minutes. If you haven't corrected your behaviour, I am going back to Toronto. You've already delayed this matter a considerable length of time and kept many people who are present waiting here and waiting. I don't think it's fair to the presenters.

My duty is to the presenters, to protect their rights, and I'm not doing a very good job because this meeting is getting out of control. I'm adjourning for 10 minutes, and I'm serious. If you cannot control yourselves and we cannot treat our guests with the courtesy they deserve before this committee, then I will not continue these hearings. Ten minutes will be 10 to 3.

*The committee recessed from 1440 to 1453.*

JENNIFER SHREVE

**The Chair:** Welcome back, ladies and gentlemen. This is a continuation of the hearings of the standing commit-

tee on the administration of justice. Our next presentation will be made by Jennifer Shreve. Welcome, Mrs Shreve. I'd ask you to proceed with your presentation, which has been distributed in writing to all of the members.

**Mrs Jennifer Shreve:** Good afternoon and thank you for giving me the opportunity to speak to you today. My name is Jennifer Shreve. I'm a resident of the city of Chatham. I am the mother of four children: David, Jessica, Justine and Dewayne.

I'm here today to let you know at first hand what the Chatham fire department has meant to me and my family. I was very upset when I found out about some of the changes that are taking place in regard to Bill 84: the potential of having fewer initial responding firefighters, part-time firefighters and allowing call-in personnel only after an emergency occurs. It is only common sense that these changes will affect response times and the present teamwork needed, as shown to me a few years ago in the city of Chatham.

My story begins back in July 1994, when I awoke to the sound of breaking glass, only to find the upstairs of my home that I had rented was filled with smoke and on fire. A neighbour had noticed smoke coming from the upstairs and alerted the fire department. They immediately came to the front door, where they entered and tried to make their way to the second level to rescue my two children, Justine and Dewayne. All I could think of was "Where are my children?" I knew two were with me downstairs and Justine was asleep in her room upstairs, but where was Dewayne?

My neighbours tried four times to enter the upper level to find my children and I also made three attempts myself, but each time we were driven back by the heavy smoke. The next thing I remember, the fire department had arrived with nine full-time firefighters in full gear and masks. They entered the upper bedroom area and immediately found Justine lifeless. I later found out that my child at that point was VSA, a term meaning "vital signs absent."

I watched as the firefighters performed CPR on my daughter Justine in the driveway. A few moments later, my son was found and brought outside, where he received CPR from another firefighter until the ambulance arrived. By the time I went to the rear of the house and told my husband that Dewayne had been found, both of my children had left the scene by ambulance headed to the hospital.

Unless you've been there, you have no idea what a hollow feeling I had at that moment in my heart, not knowing whether my family was going to become a family of four when just a few minutes ago we were a family of six.

At the same time as all the rescue and resuscitation efforts were happening, from the street I watched the rest of the fire crew continue to work as a team to ventilate and save the remainder of the place we called home, regardless of the events that just took place. They broke the upper level windows and continued with their job to let out the smoke and salvage what was left.

My two children are alive and healthy today because of the actions taken by the members of the Chatham fire department on that sunny summer morning. In November

1994 this province and its citizens honoured Firefighter Curtis Williams with the Ontario Medal for Firefighters Bravery as the person who found my children so quickly. The other members of Mr Williams's fire crew were also recognized locally for the team effort it took to save two lives that day.

The response time to my home that July day was only three minutes from the time of call to the time of arrival. Ask yourselves today, as I have many times over the last few years, what would have happened if the fire department had not arrived when it did. Would 10, 20 or 30 seconds longer in responding have been too long? I would not want to find out.

As I read bits and pieces about Bill 84 in the news, I knew I could not be silent on this issue. After being contacted by local firefighters, I agreed to share my life with you so maybe the changes that are proposed could be amended to keep the service that allowed my children to live.

You need to know today that a part-time force or a smaller initial response crew would have not have produced the same end results. Fully staffed emergency vehicles were a key factor that day in Chatham and I'm grateful for that service we've always had. We want to keep this service.

We did not have any smoke detectors in our rental unit at the time of the fire. If smoke detectors were present in our home, then maybe we would have had a greater chance at an initial rescue. I have been told that this government hasn't even legislated a simple item that saves lives, such as a smoke detector in every household. It is only common sense to have them in every home. Today a smoke detector is the first thing I look for when I look through an apartment before I rent it.

You may say this is an isolated incident, but it was not, because a similar circumstance took place the day we had a news conference in Chatham to celebrate Mr Williams's award. Not 60 minutes after we closed the news conference, that same crew answered almost the identical call: sunny day, around noon, single-family rental unit, children playing with fire in a bedroom area with no smoke detectors, and luckily no one was hurt. The mother managed to get the children out before they were caught in a deadly situation.

A few friends have asked me why I have chosen to speak today. All I have to do is look at my family, particularly Justine and Dewayne, who were saved by the firefighters, along with my other children that I see running around alive in my home. I ask myself, why do you want part-time or privatized service? The only answer is for the potential to save money. How much is Justine's life worth? How much is Dewayne's life worth? There is no price you can put on any person's life.

No matter how many laws, pamphlets or papers you have, there will always be accidents happening, especially when children are involved. We have an accepted level of fire protection in our communities today that I think should be maintained and increased as we grow as a community.

When you threaten to change and diminish the fire service I now have, then I have to ask, why? I believe the sections in Bill 84 that alter my protection need further



consideration. This is not only for you as a committee to consider, but all people in Ontario need to know how things will change if Bill 84 is not amended. And keep the fire service we take for granted many times in our busy lives.

Again on behalf of my family and myself I would like to thank you for the chance to be here today and address my concerns on Bill 84.

1500

**Mr Klees:** Thank you very much for your presentation. We're certainly pleased and encouraged by your experience, which, by the way, has been recounted to us numerous times across the province by people who have had very similar and very positive experiences with their fire departments.

Just for the record I want to assure you — and I know my friend Mr Kormos will suggest to you that by me saying this, I'm trying to put a spin on this legislation. Let me just say to you that this is not about spinning anything; this is about talking about the facts of this legislation.

There is absolutely nothing in this legislation that would suggest that the level of service you experienced in your circumstances would be in any way reduced. That's not the objective of this legislation and there's nothing in this legislation that would result in that.

What it does mean, though, is that there is some flexibility built into the legislation that allows municipalities some latitude in terms of how services are delivered. The objective is to make service better and more efficient. In fact there is an entire section of this bill that deals with fire prevention and deals with increasing the levels of safety.

Ultimately — you should be aware of this, and perhaps you are — the amount of money that is spent on fire-fighting in your municipality is determined by the municipal council, the councillors, the men and women around that council table who are elected to do that. That doesn't change. Those same people will still be there and they will still be making a decision about whether the same level of service is delivered. The fire chief in a municipality has the responsibility to recommend the level of staffing. We have every confidence that the fire chief in your community, that the municipal councillors in your community will continue to exercise their sense of responsibility to ensure that you and families like yours continue to be protected.

**The Chair:** We must move on.

**Mr Ramsay:** Thank you very much, Jennifer, for bringing your story to us. I think it's very important for all of us as legislators to hear the personal stories from citizens of this province who have greatly benefited from the emergency services we have in this province.

I want to tell you that it's my interpretation of this act that it will allow our municipalities to drastically change, if they wish to do so, how fire service is delivered in this province. The concern I have is that maybe under normal circumstances our municipalities would not be tempted to do so, but I think as you and everybody else in this room knows, we're not under normal or usual circumstances in this province. The Harris government has mounted a massive downloading of expenditures on to our municipi-

palities. Never before have our hardworking municipal councillors been under the gun the way they are now. What Bill 84 does is gives them an out to radically change, if they wish to do so, how their fire services are delivered, to try to balance their books, with all the pressures they have.

Some key aspects to those outs are the increased ability to privatize those services and the ability for the first time for a full-time professional fire service to use part-time workers. Part-time workers cannot be up to the same speed as a full-time, professional firefighter. Obviously with our experience of volunteers in this province, they are hardworking and dedicated people, but if you have to leave another job, and have another job to raise your family, you can't be up to the same level as the full-time, professional firefighter. That's what I'm concerned about. I think we have very good service today and we shouldn't fiddle with it.

**Mr Kormos:** Thank you, Ms Shreve. Your narration of what happened is incredibly moving and, quite frankly, frightening because you raise the question of what-ifs. Is it a matter of five seconds? Thirty? A minute? We never want to find out.

We listen to the government members talk about how no municipal council would ever, ever fall below any sort of reasonable standard. But you know something, Ms Shreve? Across the province we've been told about municipal councils, for their very own reasons, that have permitted pumper to be staffed with fewer than the required four people. We know that if there are only three people staffing a pumper, they cannot effect inside fire suppression or rescues. People die and/or firefighters get seriously injured or indeed die.

I quarrel with the proposition, "Oh, the government is lowering the standards here, permitting privatization, permitting part-time firefighters, but no municipality would ever allow firefighting services to descend to that level." The government is implicitly acknowledging that there is a lower level of service, a lower standard, by saying that. Yet the sad reality is that we've witnessed municipalities that have resisted firefighters' efforts to ensure minimum staffing, like a minimum of four people on a pumper which is necessary to effect rescues and inside fire suppression, among other things.

I'm scared of what this legislation will permit because I'm all too familiar with the proposition that the minimum becomes the maximum. This government is creating incredibly new, low-minimum standards that, in my view, are unacceptable to you, to me, to the vast number of Ontarians. If it's about their tax break — a participant the other day said: "If it's all for the tax break, they can take that tax break and put it where the moon don't shine." I think most Ontarians agree with that too.

I appreciate your coming out here today. You've been really helpful for us.

**The Chair:** Thank you very much. It must have been very difficult to relate such an emotional story. We really appreciate your coming out today.

#### WINDSOR FIRE DEPARTMENT

**The Chair:** The Windsor fire department, Patrick Burke, deputy fire chief.



Before Mr Ramsay objects, because he did object to a duplication on another occasion, we did hear from the fire chief. However, he was listed under a different section and there was no way we could have prevented the duplication. So periodically our system does break down, and I apologize to Mr Ramsay. Would you object to this witness or may he go ahead?

**Mr Ramsay:** No, he can go ahead.

**The Chair:** Thank you, Mr Ramsay. Welcome, Deputy Chief Patrick Burke.

**Mr Kormos:** That wasn't a point of order, Chair.

**Mrs Papatello:** That was out of order.

**The Chair:** I'd ask you to proceed, sir.

**Mr Patrick Burke:** Thank you, Mr Chair and members of the committee. I appreciate the opportunity to address you on this very important matter. The first thing I'd like to do, though, so that you've got some perspective of where my comments are coming from, is to give you a little bit of my background. I've been a firefighter in the city of Windsor for 29 years and three months. I spent 23 of those years representing firefighters in collective bargaining disputes, arbitration disputes. In fact, during that time I've presented over 100 arbitrations in disputes involving firefighters going back to the 1970s. I've sat as a nominee on boards of arbitration. I'm well aware of the way the process works.

I spent 18 years as an executive board member of the Ontario Professional Fire Fighters Association and from 1982 to 1986 I was the president of that association. I spent 11 years, appointed by the Tory government, on the OMERS board; two years as vice-chair and two years as chair of that board.

I have a law degree from the University of Windsor, which I acquired in 1990. I was called to the bar in 1992. I'm not practising at the present time, obviously.

I was involved in three coroners' inquests, representing the firefighters' associations in the deaths of firefighters in the province of Ontario. I have some understanding and I believe some expertise on how the existing legislation has worked and what some of the issues are.

What I'd like to do is to continue on where Chief Fields left off and cover some of the labour relations matters.

1510

First of all, I'd like to refer you back to the written presentation because I think the top of page 6 puts in a nutshell the concerns that the management of the Windsor fire department and the Windsor fire and rescue services has about Bill 84. Bill 84 threatens to build roadblocks to the successful continuation of all of those community activities and public education activities and fire prevention activities that Chief Fields alluded to. It does that by shifting the focus from people to processes, from harmony to turmoil and from cooperation to confrontation.

At the bottom of page 7, Chief Fields referred to where the focus should be, what the focus is from the receivers of the service, the customers out there, the citizens who expect that. It's gratifying to hear that a lot of the people who have been here speaking as individual citizens with experiences with fire departments have related to a number of these.

We want quick, responsive, uninterrupted, skilful, valuable service. All of these allow the citizens in this

community and the citizens across Ontario to go to bed each night feeling comfortable in the realization that if tragedy strikes their home or their family, a well-trained, well-equipped fire department will respond quickly, with sufficient firefighters to mitigate the incident and safely perform the tasks required to save lives, preserve property, render first aid, isolate and control hazardous materials, perform extrication and perform specialized rescue.

In my view, it is incumbent upon the leaders in the fire service and in municipal and provincial governments to ensure that legislative changes, where they're made, complement rather than compromise the needs and expectations of the citizens: our customers. This requires the striking of some appropriate balances: cost and value; level of service and quality of service; safety and level of risk for the citizens; safety and level of risk for the firefighters; needs and expectations of the people in the community.

For more than 50 years, these factors have been in relative balance in the province of Ontario. A large measure of that balance has been the legislative framework within which all of the players have had to operate, particularly in the area of labour relations and collective bargaining and the methods applied to dispute resolution. There have been no strikes, there have been no lockouts, there has been no disruption of service and relatively few grievances.

Why is that? Well, the labour relations framework has promoted the peaceful resolution of disputes. There is automatic recognition of bargaining agents, which eliminates a measure of confrontation. There is the continuous operation of collective agreements, which eliminates another area of confrontation between the parties to a collective bargaining dispute. There are clear definitions in the legislation. Those clear definitions have been put to the test in the courts and they've been clarified for the parties. There is neutral third-party intervention into disputes.

I heard somebody suggest this morning that there should be a panel of arbitrators. That takes something away from the parties in a dispute. It's still important for the parties in a dispute and it's a more reasonable expectation they have of the result if they can agree on a third person. There are simple enforcement procedures in place for decisions. There is an arm's length from the Labour Relations Act and there's a measure of certainty in the expectations of the parties.

If you contrast this with what Bill 84 is going to introduce, in my estimation you have a recipe for turmoil. You introduce competition for a bargaining agency through certification. You have confusing definitions, at least two of which involve the definition of a firefighter. You have the introduction of the concept of decertification. You have the possibility of terminating agreements and, coupled with that, the complete cessation of the terms and conditions of employment for firefighters in communities in Ontario.

There are prolonged procedures for the adjudication of disputes. You have automatic increases in the hours of work, potential decimation of bargaining units and the introduction of part-time firefighters. There is one



provision, the recall provision under the act, which I like to refer to as an indentured servitude, because it basically provides that every firefighter will be on call all the time. He will have to respond in a major emergency, and it leaves the major emergency blank. Nobody knows how to deal with that.

There are some fire chiefs and deputy fire chiefs in this province who have indicated to me that they will expect their firefighters to wear pagers 24 hours a day, seven days a week, and whenever that pager goes off, to respond. I submit to you, if they do not respond, there will be some more turmoil involved in that relationship.

Under Bill 84, harmony gives way to turmoil. There is the potential for a very negative impact on the quality of service and the delivery of service, not only related to specific provisions, which I'll get into shortly, but also to the overall tone of the legislation.

There are some general problems. Consolidation for the sake of consolidation makes absolutely no sense whatsoever. This is particularly the case where those responsible for drafting the language, as I perceive it, found it easier to cut and paste rather than to weave the legislation together so that one part is compatible with another. New words and phrases lead to new interpretations being sought in the courts. Words and phrases interpreted in the labour relations sections of Bill 84 will be imported into the enforcement and fire code enforcement and Fire Marshals Act portions of the legislation.

The logic applied to this consolidation, if unchecked, in my submission to you, could lead to a consolidation of the Police Services Act with the Provincial Offences Act, the Highway Traffic Act and other quasi-criminal statutes. In fact, if you apply parallel logic to all of Ontario, it would make sense to have one statute, the Province of Ontario Act, and we would just lump all the volumes of legislation and provincial statutes into the Province of Ontario Act.

It seems to me that what's happened here is that wherever the word "fire" appeared, that was the logic for consolidation. There should be some interrelationship between the pieces of legislation that lend themselves to consolidation and, in my submission, it doesn't do that here. That creates some difficult problems down the road.

The councillor from London spoke briefly about the problems with the offences section, and she recommended to you that what you do is just extricate section 9 from that section. If you take a look at that section and take a look at other provisions of the act and follow it to its ridiculous conclusion, it's possible for the members of the fire marshal's fire safety council to be charged in a quasi-criminal sense, to be required to go and appear and be arraigned before a justice of the peace for failing to establish a logo for the fire marshal's fire safety council. To me that doesn't make any sense. I hope it doesn't make any sense to you, but it's an example of what cut and paste can do without taking the time to build the legislation rather than just grab pieces and throw them together.

In terms of labour relations, in a word, Bill 84 is disastrous. If it's going to propel people anywhere — it was suggested that it would propel us into the 21st century — my suggestion is it would be the reaction of

a boomerang and it would propel us backwards into the turn of the century, in the 1900s. It certainly is not in line with the trends towards labour relations that are emerging today all over North America.

Those who would tell you that Bill 84 has some good sections so we should pass Bill 84 because of the good sections would probably also tell you that cigarettes are good for you because the filter looks nice. It doesn't make sense.

The hours of work are basic to collective bargaining. That's being taken away. The costs of conciliation have been addressed by an earlier person here at the table. This is also a recipe for increased costs. People have talked to you about cost savings in some areas. The legal costs involved with having to go through hearings before the labour relations board, with having to go to the courts for judicial review on what arbitrators meant or what the legislation means when it sets out language, is going to tax the coffers of municipal budgets and municipal finances in this province tremendously.

1520

The potential for people to extricate out of the bargaining units — captains, for example — creates another cost. At a recent seminar I asked a management-labour relations lawyer, if all of the captains in a bargaining unit were taken out, wouldn't there have to be some special arrangement with the association so that people could move in and out in an acting capacity? He said, "Yes, that's true, or you would have to provide more captains." I would suggest to you that if Bill 84 passes, you're going to be providing more captains, because I don't think the associations will very readily allow for provisions to take place which are assisting in decimating the bargaining units.

If, for example, that is one of the lower levels or the primary level of promotion within that bargaining unit, you end up with a flat-line bargaining unit. That sends people to the bargaining table asking for increases in salary due to specialization. A lot of those things that Chief Fields talked about, that we get for paying absolutely no increase — people don't get extra pay for being instructors — will become bargaining points. They will cost more money to the municipality. They will be awarded by boards of arbitration, there is no doubt about that. They will be prone to increasing and creating some promotional opportunity within bargaining units. It's a real danger.

In general, there are some difficulties with who is going to be responsible. It's not clear how many ministers are going to be responsible, and the fire service, as a result, doesn't know who is going to be the voice of the fire service in the Legislature. For 50-some-odd years we all knew that the Solicitor General was there and you had some place to go. It's too easy to shovel off one way or another.

I have a lot more to say. I would have a lot more to say but I want to cut it off because there may be some questions and I want to be able to answer some of the questions.

**The Chair:** Just wind it up. There is no time for questions.

**Mr Burke:** I think what you should do is take a look at this, and I'm recommending a major overhaul in terms



of amendments. I'm recommending severing the labour relations part. I'm recommending that you build on the existing Fire Departments Act. Use that as a template and make some changes, do some fine-tuning, rather than do an overhaul by a backyard mechanic. I would recommend that you take those into account very, very seriously. I thank you for your time.

**The Chair:** I thank you.

*Applause.*

**The Chair:** Many of you were not here this morning when I pointed out that the standing orders prohibit demonstrations in the audience which are signs of disapproval or approval, and I'd ask you to restrain yourselves. I know how difficult it is. I did not have this problem in other cities, nor with the police, and I expect I won't have it here.

#### WINDSOR PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Doug Topliffe is our next presentation.

**Mr Doug Topliffe:** Good afternoon. My name is Doug Topliffe. I'm a Windsor firefighter. I'm chairperson of the occupational health and safety committee for the Ontario Professional Fire Fighters Association. As a member of the employment family assistance program for the city of Windsor, and having certificates in critical incident stress debriefings, I will be raising some serious concerns on certain aspects of this bill.

Before I get started, I would like to make this committee aware that the council of Windsor, Ontario has passed a resolution concerning Bill 84 and we will be passing this out to you. This was passed on Monday. We just got a copy of it and everyone will get one before you leave today.

We have established that the passing of this bill, as it stands, will present significant change in our fire protection, threatening to undermine the speed, experience and teamwork that is in effect in every full-time fire department in Ontario. We do not want this to happen. We do not want public safety to be compromised in any city.

The shadow of understaffing firehalls, understaffing vehicles, along with the deterioration of training and experience, as we know it, looms overhead. Consistency of training and teamwork will be lost.

Not too long ago, a person felt very secure with the health care system. When you went to the hospital you knew you would have the best of care. In the emergency room, you knew that care was just minutes away. Now we have a problem in the hospitals due to overwork and understaffing. Hospital care facilitators suffer and the patients suffer. Although the hospital staff is giving the best they can, it is not as it once was. Why? Because the system has changed. You now have less people to respond to the immediate needs of the patient.

We do not want that to happen in the fire service. The citizens of Windsor are still secure in the fact that the Windsor Fire Department is just a phone call away. We are immediately responsive to your needs. We do not want to reduce our firefighting and rescue capabilities to save a few dollars.

The passing of this bill encourages municipalities to understaff fire stations and emergency vehicles, thus

reducing the level of service the citizens are now expecting. This will slow the response time with an adequate number of firefighters getting on the scene, seriously jeopardizing the current level of rescue and fire control operations. It is no secret that coroners' juries consistently identify an adequate number of firefighters and response times as the key factors in saving lives.

We saw a little child up here this morning, and I really believe that just a few more seconds, if that had elapsed, we would not have seen little Cheyanne running around this room this morning.

This bill also opens the door to privatization, a concept that introduces a profit motive into the provision of emergency response and public safety. We Ontarians do not need emergency services delivered at levels that are dictated by the need for corporate dividends to be paid. Public safety and firefighter safety are paramount in the minds of every firefighter.

I would like to tell you just a little bit about firefighters. We feel firefighting is a prestigious job. We feel we do a special job, and believe me, we want to make a difference. Firefighting is an ultrahazardous, unavoidably dangerous job. We may be burned, killed, injured or suffer disease and illness from our occupation. Our citizens may suffer from the same dilemmas.

We can all suffer physically from a fire: broken bones, smoke inhalation, scarred lungs, burned arms or legs. These injuries can heal, but they change our lives. The scarring of a facial burn may be correctable by plastic surgery, a back or a leg burn may be hidden, however, there are times when no amount of surgery can correct the undeniable sight of a person who has been a survivor of a fire. For the rest of your life you are reminded of this event. You are stared at, ridiculed, your life is permanently changed. We want to continue to reduce the number of persons who are scarred. We can only do this with quick response times, training, teamwork and adequate staffing.

What about our minds? In a firefighter we call it critical incident stress. It is an all too common emotion in our service. If a person dies, especially a child, you remember it for the rest of your life. I will tell you, firefighters do not want to fail. We will not accept any reason for failure.

Citizens suffer. They most certainly can suffer physically, but what about their mental suffering? They hear the wails, the screaming, the pleas for help long before the firefighters arrive. They can't help the victims, they can't go in and put the fire out, they can't rescue the person in the fire. If the person dies, do you think those screams will be forgotten? Never.

These stresses will be multiplied in both the firefighter and the citizen if there is even a hint that something went wrong with the firefighting evolutions. Privatized fire departments would be devastating. Part-time firefighters in a full-time setting would be counterproductive. Both firefighters and the citizens would be shaken to the bone to wake up with the realization that part-time firefighters were not thorough in their efforts to save a loved one.

Full-time firefighters train, retrain and then train some more. They do not have to think when they go into a fire; it becomes second nature. Firefighters live for their job.



They must know that everything possible was done. Strangely, the public must also know that everything was done. If they lose a loved one, they will be angry, but worse, they will never be the same knowing that something was left undone. Their loss will be greater knowing that inferior firefighting capabilities accentuated the causes of their loss. However, remember that the haunting sounds they heard while waiting for the fire department to arrive will be engulfed with the sounds of happiness when a rescue is performed.

1530

Speed, teamwork, experience and training save lives. Training and experience can turn tragedy into success. Remember the coroners' inquests again. They consistently state that quick response with adequate firefighters is paramount in saving lives. Some or all of these constants would be lost with part-time firefighting.

According to Dr Tony Felbaum, a psychologist who has done extensive work with firefighters, there is another phenomenon that could be created with the use of part-time firefighters. Because these part-timers will not have the benefits of the excess training that full-time firefighters receive, because they do not reap the benefits of the experience, they do not reap the benefits of the teamwork built up with your brother and sister firefighters. The confidence level and mutual trust that is so prevalent in the present fire service will not be there. Now the experienced firefighter will not only have to worry about the problems with the fire, he will have to worry about his new colleague and himself. It's an extra burden. Will this have an effect on the firefighters' safety and that of the victims? It is conceivable. Firefighters are concerned about the citizens in the province of Ontario.

In Windsor, we have proven this with such things as our smoke detector installation program. Firefighters, both on and off duty, installed smoke detectors in hundreds of homes. There is no residence in the city of Windsor that should be without a smoke detector. Fire Prevention Week at the Devonshire Mall is attended by thousands of people. Among many of the fire-related topics, adults and children alike learn safety tips and are educated in safely leaving a home when a fire is found. Our fire house travels all around Essex county and our fire starter program has had a tremendous impact on the youths of this city.

This campaign is not just about saving jobs; it is about saving lives. Firefighters and safety, believe me, go hand in hand. The fire marshal of Ontario is on record as saying, "The current system promotes teamwork."

For two consecutive years, the administration of the firefighters association and the city of Windsor have won the prestigious Fire Marshal's Public Fire Safety Council's safety award for our endeavours to promote safety and fire prevention. Fire prevention and education is a passion with almost every fire department in the province of Ontario.

Firefighting is a way of life. When we pull up to a fire scene, people are leaving as we attempt to enter. To know what it's like to be a firefighter is not easy. Let me attempt to explain a real life situation, if I may.

We pulled up to a house with smoke showing, along with the first licks of flame exiting the house. We were

told a young boy was trapped in the upper floor. As we entered the house, the smoke thickened and there was almost no visibility. The flames were rapidly spreading, the heat was readily noticeable. After the first few feet we had to feel our way to find the stairs. The heat and flames made the stairs barely tenable. The lead firefighter heard a cry in the upper area. Although hot, and with some apprehension, we knew we had to advance. As it turned out, that one sound of that child would be overwhelming.

At that point it would seem there was no turning back. If there were any more cries they were overwhelmed by the sound of the burning in the house. We were extremely hot, with by now zero visibility, when suddenly the lead firefighter began to retreat. With steam and heat pouring off our firefighting gear, we fell exhausted to the ground. Yes, we were beat. We lost.

The firefighter had his ears and neck burned, injuries he would overcome. This firefighter is not on the job any more. The loss ruined his career and indeed had a major impact on his life. They found that young child shortly after the fire was knocked down. The lad was behind a door, within 10 feet of where the firefighter was forced to stop. Even though the firefighter was burned, he did not want to give up the rescue attempt. Although he gave everything he had to reach this young boy, in his mind it was not enough and he left the fire department.

Members of this committee, this is why we have firefighters last week like Pete Rivers and Don Johnston from the Windsor Fire Department who were caught in an extremely dangerous situation. Indeed their protective equipment was irreparably damaged. I don't know if this is really allowed, but I just want to show you what they came out of the fire looking like. This is their mask. This is their helmet. The mask was okay. The straps were burned. They went to the edge. They risked their lives. There was a child reportedly trapped in this structure. There was no question they had to attempt to save her.

Members of this committee, I urge you to listen to the deputations of the last few weeks. I want you to consider the names on the petitions that you have received. I want you to listen to the citizens. I'll tell you, as a homeowner and as a citizen I understand the concept of saving and cutting back, but never would I, in my own home, cut back at the price of safety for my family.

The firefighters in Ontario have never had a strike or a slowdown concerning firefighting. There's a reason: We will not jeopardize your safety. Please consider making major amendments to Bill 84. Please give the firefighters the respect they have earned and deserve. Thank you very much.

*Applause.*

**The Chair:** Thank you. Your time has elapsed. I thank you for your eloquent presentation. Again I would remind the audience that demonstration and intimidation of witnesses in this hearing are not permitted. You are intimidating anyone who might want to speak other than in favour of something you've got to say. I will not stand for intimidation on my watch. I'm sorry.

**Mr Bisson:** Chair, the public of Ontario is getting pretty intimidated by your government.

**The Chair:** That may be. Please come on up, sir.



**Mr Klees:** Chair, while the witness is coming up, I have a point of order I'd like to make: I'm concerned about the members of this committee who began that last applause. We know it's out of order. The reason for my concern is, first of all, they should be setting an example of how these hearings are conducted, and second, there should not be any indication by the fact that we, or that I am not applauding because I don't appreciate the presentation. That is not the message we should be sending in this committee, and I would respectfully ask that all members of this committee conduct themselves accordingly.

**The Chair:** Mr Klees, there is nothing in the standing orders that prevents demonstrations by members. What I am concerned about are demonstrations by the audience that could intimidate witnesses. I have had eight to nine days of hearings. We have been to many sittings. I come from Cambridge, by the way, and that's not the way we treat guests in my city. I expect you to abide by the rules that are laid down, not by me, but by the standing orders. It's as simple as that. I would appreciate it.

**Mrs Papatello:** Mr Chair, on a point of order: Just for the record, because you are in the city of Windsor, I wanted to assure anyone who speaks to the committee here, regardless of your position, the people and residents of Windsor have a great respect for all opinions. You would be eminently safe here in Windsor, coming and going, and whether they applaud or not, truly it's a very safe and wonderful community, Mr Chair.

**The Chair:** That is not a point of order.

#### STEPHEN ORSER

**The Chair:** Mr Orser, please proceed.

**Mr Stephen Orser:** I can assure the whole committee, I'm most certainly not intimidated by applause by the audience or anyone here on any side of the argument.

My name is Stephen Orser. I'm from London, Ontario. I live in a seniors' complex named Cherryhill. Mr Wood is familiar with it. I believe he's my MPP.

What brings me here today is my grave concern over the Progressive Conservatives' Bill 84. This came to light to me through a notice I received from MTO. I'll read the bottom of the notice. It said, "Time is of the essence for firefighters and emergency response personnel." After reading this notice — it came with my licence renewal — I was going through the neighbourhood mall and there was a fire safety campaign by the London firefighters' association going on, at which time I picked up literature about Bill 84, signed a petition and volunteered my name to speak to this committee.

1540

In the past, I have experienced loss from fire. When I was a young man in my home town, I witnessed a fire in which Bonnie Faulkner passed away, and I was there to hear her last screams. We had a volunteer fire department — and this is nothing against their efforts; it was a small town — it took them roughly seven minutes to get to the fire. My involvement was that I was one of the local kids who would follow the fire trucks.

I was with the brother of Bonnie Faulkner as we realized it was his house on fire. I was there at what I

now know, from the last few days, is called the flash point, when the house was consumed by fire. I heard her last cries. It was something that has stuck with me all my life, and as such I have an interest in fire matters.

At one time I was a superintendent for about 54 units near the University of Western Ontario, and it would seem almost every other day we'd have a fire response because of students and their wild partying. Many times a fire response would happen within minutes; and if it hadn't, we would have lost a lot of property and a lot of students.

My own direct personal experience flows from an ex-girlfriend who lost two brothers in Lucan due to lack of response time. My own direct personal experience is a fire I caused unwittingly when I left some items cooking on a stove and I went to a variety store. I came back roughly 15 minutes after leaving, and the fire department had already put the fire out and contained it. They had done so within five minutes of me leaving. It was my mistake for leaving the burners on high. There were 12 people in the house who would have most certainly perished if we didn't have a rapid response time.

I've done my best to understand the issues at hand. I was given a tape supplied by the firefighters' association that deals with the privatization issue as it has been dealt with in the States — I believe it was Arizona — with a company called Rural/Metro fire department.

I'd like a point of clarification from the Chair or the assistant of the Chair. On Bill 84, under the section that says "employer," there's a word in that section that says "organization." I'm wondering what the definition of an organization is under this bill.

**Mr Bisson:** He's asking you a question.

**The Chair:** Well, unfortunately, you're not in a position to ask questions. You can ask it rhetorically, and perhaps the other members would like to raise it during debate.

**Mrs Papatello:** On a point of order, Mr Chair: This is the very same question a member did raise and has yet to have had a response on. So please don't suggest to this fine gentleman who has made a trip to be here that one of us —

**The Chair:** Mrs Papatello, that is not a point of order. Please proceed.

**Mr Kormos:** Well, this is a point of order, Chair. Chair, on a point of order, please: The parliamentary assistant is here; he's the spokesperson for the government, for the Solicitor General. You've got a citizen who comes here and, as part of his 15 minutes — and he's entitled to use it, I put to you, whichever way he wants, either to use it all with his own address or to leave any balance for others — he has put a question to the parliamentary assistant. The parliamentary assistant should give him the courtesy of answering it.

**The Chair:** That's not a point of order. Sir, please proceed.

**Mr Orser:** Okay, fair enough. I guess then I'll have to read into what I can see the word "organization" as meaning, since I can't get a clarification from the committee. I would put it to you that in the event that I'm not sure what "organization" means, it would be possible for



the Boy Scouts of Canada to take over as an employer for the firefighters in London. Would that be an incorrect statement?

**Mr Bisson:** As long as they win the contract.

**Mr Orser:** So any group can come in and privatize the firefighters in the city of London?

**Mrs Papatello:** That's correct.

**Mr Orser:** That's correct? What I'm worried about in Bill 84, since it's evident that it is a direct bill towards privatization of the firefighting services in the city of London, where I live, is that after watching the video, I saw things such as subscription fees; I believe the number was \$931 a year to subscribe to the fire service. In the alternative, when the private firefighting department showed up, if you didn't have insurance or whatever you call it, the subscription fee, you had to pay a fee of upwards of \$5,000. I'd like to know, in this act, where the protection against these outrageous charges is for the citizens.

**Mrs Papatello:** They are not there.

**Mr Orser:** There are none.

**Mrs Papatello:** Right.

**Mr Orser:** I feel that privatization will be the downfall of proper fire services. I don't want to say who I voted for in the last election, because now I'm a little ashamed, but I believe that if this were an election issue, a party that would endorse privatization would not enjoy a majority. I speak to hundreds a week in my little business, and I have not found one person who wants to jeopardize fire safety with privatization.

We've seen problems in waste management with privatization. We've seen problems with the ambulance services with privatization. Essential services such as firefighters and police should have a brick wall of protection around them for the public benefit. I think, furthermore, that companies that are going to bring jobs to the city of London may take a serious look at going elsewhere if we privatize in the city of London.

I'd like to ask anybody here who is allowed to answer: In the event of privatization, is there going to be any mandatory, legislated response time? In other words, if somebody comes in and takes over the firefighting duties of the city of London, are they going to know that you respond in four minutes or five minutes or you don't get paid? I submit to you, if this is put into the law, that there's a mandatory response time to protect the citizens, you won't have one company come forward.

Furthermore, on the issue of part-time firefighters, I'd like anyone on the committee who would trust a part-time heart surgeon or a part-time brain surgeon to operate on them to put their hand up, because I know I wouldn't. Firefighting is as serious, if not more so, than the two aforementioned items.

It's evident by what's going on here that if this came to a plebiscite in our city, there would be an outstanding no. Now, I understand this committee can't recommend a plebiscite, but if it could, I'd appreciate it. Maybe my MPP would put that forward when he's in Queen's Park and let the citizens opt out of this type of legislation. I'd be pleased to answer any questions from anyone here.

**Mr Kormos:** That's a refreshing change; nobody has been prepared to answer yours.

**Mr Bisson:** Let me just be clear that as a member of the New Democratic Party I can guarantee you we would not be and are not in favour of any form of privatization of essential services.

I ask you a question. I don't have enough time to ask the question; I'm trying to figure out how to get to it really quickly. Sometimes that's a problem. Would you say that the person who fires somebody is the employer?

**Mr Orser:** Absolutely. To be able to fire, you have to be able to hire. That would imply an employer-employee relationship.

**Mr Bisson:** In the existing legislation on fire services, the employer is defined as the municipality. In the case of Bill 84 — and I think you've answered my question — the employer is either the municipality or an organization. Would you say this bill opens up to privatization?

**Mr Orser:** Absolutely, without a doubt, and I think it is an outrage that's trying to be slipped in the back door. I found out about this just through a fluke. I didn't see any ads on TV with Premier Harris talking about this bill. All I saw was him in a hockey rink and up against some type of electrical board. I couldn't understand what he was doing, but it didn't make any sense to me that such a serious issue wasn't advertised on TV so everyone would know. That would be the appropriate way to spend funds.

**Mr Bob Wood:** I have patiently awaited my turn to try to respond to some of your concerns. The reason I did that is that I want to give everybody a chance to put their concerns forward and then we'll try to answer those where we have time at the end. There's no change in the position with respect to privatization between the current situation legislatively and what will be the case under the new bill. So there's no change.

**Mr Orser:** That's the motion you're going to put forward to alter this legislation?

**Mr Bob Wood:** There's no need to alter it. That's the fact with respect to the legislation as now drafted: There's no change.

**Mr Orser:** Then, sir, with all due respect, that can be solidified in the legislation, that there will be no privatization whatsoever.

**Mr Bob Wood:** No. There's no change.

**Mr Orser:** We could clarify it for people like me who weren't able to understand that.

**Mr Bob Wood:** There's no change. I apologize for interrupting. If you want to make a further submission, go ahead. If you don't, I'll try to answer your last two questions. But it's your time, so you call it.

**Mr Orser:** I'd just like the opportunity to respond.

**The Chair:** Unfortunately, neither one of you has the time, because we have to go to Mrs Papatello.

**Mrs Papatello:** Mr Orser, firstly, it's refreshing to have you come to present here. You seem like a very decent individual putting forth very reasonable requests of the government, which they are not recognizing. We will on your behalf, however, be looking for very clear amendments which would outlaw privatization of firefighting services and rescue. That we will be doing.

I'd like to put every Conservative member who is in this room today who is suggesting that these thousands of

people who have come forward so far are simply being petty, that privatization is really not an issue — this is what they're trying to tell us: "It's really no big change. It has always been there." On behalf of everyone who stood at Queen's Park, in uniform, silently and with great respect trying to tell Solicitor General Runciman that this is not the case with this bill, we also will be doing that when we come to submit amendments to this bill.

I need to put this on record while we have an opportunity. This is a letter from the president of the chiefs' association.

**The Chair:** Your minute is up, Mrs Pupatello. I'm very sorry. The 15 minutes, Mr Orser, have been completed. I thank you very much for assisting the committee in its deliberations.

**Mr Orser:** I'd like to thank you, and I'd just like to close with saying that I think this bill should be buried, not human beings.

*Interruption.*

**The Chair:** It seems that no one in the audience wants to listen to me. I'm going to take a five-minute recess. I'm going to come back. There are a number of associations that are on record to be proceeding. If the behaviour continues, I will ask the audience to leave. If they do not leave, then I will have to adjourn the committee. A five-minute recess.

*The committee recessed from 1554 to 1606.*

**The Chair:** Could I ask everyone to get to their places so we can start the meeting this afternoon. We have four people we are going to hear from, two associations and two individuals. Again, we don't get advance warnings of what position people will take, so we'll have to wait to see.

WALLACEBURG PROFESSIONAL  
FIRE FIGHTERS ASSOCIATION

ONTARIO PROFESSIONAL  
FIRE FIGHTERS ASSOCIATION

PROVINCIAL FEDERATION OF  
ONTARIO FIRE FIGHTERS

**The Chair:** Our next presenters are Patrick Martin and Rick Miller on behalf of the Wallaceburg Professional Fire Fighters Association. Welcome, gentlemen.

**Mr Patrick Martin:** Thank you. My name is Patrick Martin. With me is Mr Rick Miller. I will do a short presentation and then allow Rick to comment as well.

I am a full-time firefighter in the town of Wallaceburg and also the president of the Wallaceburg Professional Fire Fighters Association. I am deeply concerned about the negative impact Bill 84 will have on the fire service in our province. Although Bill 84 does include some positive improvements to fire prevention and education, I feel the bad will outweigh the good.

Today I wish to express my concerns from two different perspectives: first, from the point of view as the president of the Wallaceburg Professional Fire Fighters Association, and also as a person whose family lost four members in a tragic house fire. Many years ago my wife lost two sisters, one brother and an aunt in a house fire in Wallaceburg.

As a firefighter I oppose any part of Bill 84 that will reduce the safety of the public and my fellow firefighters. I disagree with the concepts of part-time firefighters and privatization of the fire service. I oppose any legislation that will reduce staffing or increase response times.

The message from the professional firefighters of Ontario has been loud and clear. I'm sure during the course of our campaign and these public hearings you have heard our reasons for that concern. I would like to spend more than 15 minutes with you to discuss this in detail; believe me, I really would. However, since my time is limited, I will not repeat what you must already know.

I'm going to break from my presentation here and just comment. During the course of the hearings today, I heard some of the speakers being asked questions like, "With the downloading of the province to municipalities, do you feel that your municipality would consider things such as privatization, part-time, what have you, any form of reduction to the fire service?" I'll answer that question. The answer is very loud and clear, and it is definitely yes.

I can tell you that from experience, because last year in the town of Wallaceburg our community faced that situation, and it was very obvious. Our community was very vocal in saying, "Look, here are the cuts, here's the money we're not going to get any more, and we have to cut you by X number of dollars." They took the easy way out. They said, "We're just going to reduce your firefighter staff." They tried to put us back to just a two-man response crew, only two full-time firefighters on duty. Also they tried to operate our fire department without a chief. It just blows my mind. Obviously, with the chance, you're darned right they would consider privatization.

My chief was up here this morning and gave a presentation. He was asked basically that same question, would our community right now consider that? He answered no. He answered no because right now our mayor, in fact at a meeting on Monday night, guaranteed me they would never consider it. Right now we have a good relationship with our present mayor and council. The reason we have a good relationship is because the firefighters gave considerably and helped to achieve those savings. But that's him saying that. What kind of government are we going to have next month? With Kent county restructuring, our mayor may not be there next month. That's right now. Right now he says he wouldn't do that, but another mayor would reduce in the blink of an eye; you're darned right they would. My answer is yes, and I can say that from experience.

As I mentioned earlier, my wife, Lorrie, lost four members of her family in a house fire. Even though much time has passed since then, I'm sure you can imagine how this has affected all our lives. The memories will last forever. My wife still sees the vivid picture of her sisters being carried from the house as she stood in the front yard. My father-in-law still can't even talk about it. He couldn't deal with it. I think those are the people you need to see and hear from today, but I couldn't ask them to come here; I know they couldn't go through it. My wife's little sister was only six months old at the time. This proposed Bill 84 right here is now older than Katherine was when she died.



You guys have to listen. You have to listen when we say lives will be lost, because we've seen it, we know. I've seen it from both sides.

Do you believe that at the time that tragic house fire claimed those lives the standard practice for our fire department was to respond with only two firefighters? Think about that: two firefighters. Think about the mathematics here, gentlemen. You don't need your calculator. There are four people inside that house who are dying, and there are two firefighters out on the street waiting for help to arrive. This just doesn't make any sense. You might also be shocked — I already mentioned it — that our municipality attempted to return us to the two-man initial response team last year just to reduce the fire department budget. This proves that some people will try anything just to cut a budget. This action must stop.

Bill 84 makes it easier for municipalities to understaff their firehalls. Bill 84 makes it easier for municipalities to privatize the fire service. If prior to Bill 84 our municipality tried to make these cuts, what will happen if Bill 84 passes in its present form? The cuts to the fire service will be deep. We will return to the two-man response crew. We will see house fires like my wife's family experienced.

The cuts to the fire service that Wallaceburg attempted last year I suspect had an impact on Bill 84. If Wallaceburg was successful in eliminating the chief's position, the effect on communities across the province would be incredible. I believe that clause (6) of part II in Bill 84 was included to prevent this from being attempted again. Here again, I would think that the fire chiefs across the province would have stood up and just shouted loud and clear. The fire chiefs across the province who are very proud of their contribution to Bill 84 should have realized that any flexible language would result in this kind of cutting. There, again, we must amend Bill 84 to preserve our level of protection.

Back to the wording, I've heard some comments this morning. Obviously there's a different interpretation of the wording from each side here. I met with Mr Jack Carroll, our MPP, and actually that very thing came up. When we talk about a mandatory 48-hour workweek, he said, "You guys are just reading it wrong; you're misinterpreting it." Of course I'm hearing that again here today. I'm a firm believer in, "Mean what you say, say what you mean." If it's that unclear that nobody can understand it, then it's very poorly written and we'd better do something.

In view of what happened to my wife's family, I'm sure they wonder why I became a firefighter. I know they worry a lot. I can recall a time at a fire scene when I was working up on our aerial ladder platform and I looked down, and in the crowd was my father-in-law looking up at me fighting this fire. What must have been going through his mind?

Fire has already taken too much. You guys have the power to improve the odds. You must amend Bill 84.

**Mr Rick Miller:** Good afternoon. I am the pension chairman for the Ontario Professional Fire Fighters Association, which is a province-wide organization. I am here today on behalf of my organization and for the Provincial Federation of Ontario Fire Fighters. Therefore,

I am speaking today on behalf of 9,000 full-time firefighters in the province of Ontario.

On behalf of these firefighters, I would like to voice our strong objections to section 52 of Bill 84. You have our written submissions, which detail our objections, but I would like to summarize these for you now.

Subsections (2), (3) and (4) of section 52 set out a mechanism for requiring approval of the Minister of Municipal Affairs for pension plan changes. This mechanism is totally out of date. It is our understanding that subsections (2), (3) and (4) of section 52 were put into the bill mistakenly as a result of a drafting oversight and, therefore, should be deleted entirely.

These provisions were intended to replace current language in the Fire Departments Act. However, the language in the Fire Departments Act has been obsolete since the introduction of the Ontario municipal employees retirement system; that's better known as OMERS, our provincial pension plan. That was introduced back in 1962. This language should have been deleted from the Fire Departments Act then. Similar language was deleted from the Municipal Act in 1990, further proving the need to eliminate section 52 from Bill 84.

We have a letter from the senior vice-president of OMERS stating that the mechanism in the Fire Departments Act has not even been considered when the plan seeks pension plan changes and approval from the Minister of Municipal Affairs. Further, I have a letter here in front of me, which I'll read a little bit of in a minute, from the Minister of Municipal Affairs that was sent to the OMERS board chair on August 22, 1996, which recommends that OMERS seek even greater control of their pension plan without any provincial government intervention. I'll read one line from that letter. It states, "The Who Does What subpanel suggested that the ultimate goal should be to hand over full control to the members and employers without provincial involvement." This is a letter from Mr Leach himself.

With this in mind, the OMERS board is currently preparing this concept for the government. Our research efforts show no other public sector members that are enrolled in OMERS are subject to any approval mechanism such as the one suggested in section 52. It is not even found in the Police Services Act, for example.

Even the old pension plans that were established before the introduction of OMERS, such as the Toronto and Ottawa superannuation funds, do not inform or seek provincial government approval when giving benefit improvements or implementing planned changes. Therefore, the language in section 52 is not necessary for these plans either.

We submit that section 52 should be deleted, but I would like to point out that, in any event, the language is seriously flawed and would result in serious inequities. Our written submissions detail the flaws in the language.

In closing, I strongly encourage the committee to delete these three subparagraphs of section 52 of Bill 84 to permit the existing procedures for the provision of pensions to Ontario firefighters to operate. Thank you. I would be glad to answer any questions you may have.

**Mr Klees:** I'd like to just address your concerns, sir, that you expressed about the level of protection that's



being provided by a municipality, and I don't disagree with your concerns. As you're probably aware, apart from Bill 84, right now there is nothing at all in legislation that empowers the fire marshal to review the services being delivered by a municipality. Bill 84 in fact does that for the first time. It allows the fire marshal to assess the level of service that's being delivered at the municipality and, if necessary, to regulate the level of service that should be delivered. So I think from that standpoint there's a very positive component to this.

With regard to your concern about pension, we hear you and I can assure you that is something that we will be addressing.

1620

**Mr Duncan:** I just wanted to address the first presenter. To re-emphasize — and being a former municipal councillor — the way this government has done things historically: If we look at education, for instance, they cut funding or they download additional expenses and then give municipalities the power to do things that they might not otherwise consider, so if they're not forced by legislation they can be coerced by a lack of adequate funding or additional expenses that are placed on them. I think we have to recognize that.

We have to recognize that you can't consider this bill strictly in isolation. You have to consider it in light of the downloading; you have to consider it in light of the province's revenues, in light of municipalities' revenues. It's our view that this is just another attempt or another piece of legislation that is designed to force municipalities, that are going to be extremely hard-pressed to make changes, cuts to local services or to introduce user fees. To suggest otherwise, even if you can somehow ignore the wording of section 41 of the act, you cannot ignore the reality that municipalities are faced with in terms of the downloading that's gone on and the cuts in revenue they're going to experience.

The concerns, both from a legal perspective and from a financial perspective, are real and valid. Municipalities are going to be forced, I can tell you, to make some difficult choices. Let's not forget what was done in Bill 26 either, vis-à-vis what arbitrators have to take into consideration when settling awards for firefighters.

**Mr Bisson:** Three very short questions: Would you say that the person whom you negotiate with as an employer through your association would be deemed to be your employer?

**Mr Martin:** Yes, our municipality is our employer.

**Mr Bisson:** Okay. Second, in the current act it states under "Bargaining": "When requested in writing by a majority of the full-time firefighters, the council of the municipality shall within 60 days," blah, blah, blah. It talks about responsibility and negotiation. Would you say it's fairly clear there that the municipality is your employer?

**Mr Martin:** Yes, definitely.

**Mr Bisson:** The proposed Bill 84 talks about the parties in bargaining being the employer and the bargaining agents being the parties to the bargaining. Would you say that could be either a private sector employer or a municipality?

**Mr Martin:** It could be. It sounds like it could be, yes. It's vague. It could be private sector or —

**Mr Bisson:** So it's fairly clear under the old act that the municipality was the employer, but under the future act that's being proposed it opens the door wide to privatization.

**Mr Martin:** Exactly, wide open. It's very vague.

**The Chair:** Gentlemen, thank you very much for your presentation here today.

#### WINDSOR PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation — we have a written submission — is the Windsor Professional Fire Fighters Association, and Mr Jack Fenton, the president, will be making the presentation on their behalf. Welcome, Mr Fenton.

**Mr Jack Fenton:** Thank you, Mr Chairman and members of the committee. You heard Chief Fields refer earlier to the young and older firefighters in the city of Windsor; I'm one of the older ones.

Just to give you a brief bit of my background, I've been a firefighter in the city of Windsor for 32 years as of this year. I hold the rank of district chief in the fire rescue division. I've been involved with my own union association here in the city of Windsor since 1972 and have served the last 10 years of that as president and currently still am the president of that association.

I've been involved as an executive officer of the Ontario Professional Fire Fighters Association since 1974, serving four and a half years as president of that organization, and still sit on the executive board as past president.

I'm been involved in negotiations, presenting at boards of arbitration, both rights disputes and interest boards right across the province, from Windsor to Fort Frances, for many years. I've been involved in presenting every brief to the provincial government, to the Solicitor General, on changes to the Fire Departments Act since 1974.

I served on the Fire Services Review Committee that was appointed in the late 1980s, established by the Liberal Party to review the fire service in the province of Ontario, and stayed on that committee until it kind of reached its conclusion when the current government took over things so we had a change.

I've had a fair bit of experience in what's gone on in the province as far as fire legislation and obviously with firefighting in my own capacity within the city of Windsor. That's just to give you a brief background. I'm going to touch on some of the things you've probably already heard from many firefighters right through the hearings you've had. The good thing, I suppose, from your point of view, is this is the last time you're going to hear it from a firefighter before you conclude your deliberations.

I'd like to go through my brief just to give you my points of view on what I believe about Bill 84.

The Fire Protection and Prevention Act, 1996, was developed under the premise that it would serve to improve the delivery of fire services and demonstrate a commitment to a safer Ontario. There are sections within Bill 84 that no doubt lead to safer communities with the introduction of provisions that will require every municipi-



pality to provide programs for public education with respect to fire safety and certain components of fire prevention. In communities where fire services are lacking, it requires the establishment of a community fire safety officer or a community fire safety team, or the establishment of a fire department.

The bill facilitates the ability of a municipality to share in the delivery of these services. Bill 84 provides a mechanism that allows the fire marshal for the province of Ontario to create standards for fire protection services in municipalities where in the opinion of the fire marshal there is a threat to public safety.

Unfortunately, Bill 84 goes far beyond those situations that may have an effect of improving the safety of the citizens of this province as it relates to fire and enters into an area that, in my respectful view, does absolutely nothing for the safety of the firefighters in this province and will have an adverse impact on the quality relationships that exist throughout the province between the firefighters and their respective communities.

Bill 84 encourages municipalities to examine their fire services and look to alternative methods of providing a cheaper service to the community by contracting out the fire service to private firms and through the introduction of part-time firefighters into municipal full-time fire departments.

The privatization of the fire service, in my view, will lead to the destruction of the delivery of the fire service in our communities as we know it today. The privatization of fire services began in the United States, in Arizona, and has not stood the test of time. Many of the communities entered into privatization plans thinking that they were going to save tax dollars and ended up realizing very soon that they were not getting the level of service that they once had, and they were indeed paying more for less.

Private firms are in the business to make a profit. They will provide staff, equipment and programs only to a level that will allow them to make money. There are numerous cases on file on the inadequacies of private fire companies. Some of the inadequacies include poor response times, insufficient firefighters responding to provide an appropriate fire attack team, equipment breakdowns and poor training.

The introduction of part-time firefighters into municipal fire departments is another recipe for disaster. Firefighting is a very highly skilled, team-oriented service providing a wide variety of services including firefighting, auto extrication, medical responses, high-angle rescue, water and ice rescue, confined space rescue, hazardous material response, and responses to natural and man-made disasters. In order to deal with each specific response type, it requires specific numbers of highly trained professionals to perform the tasks involved to ensure the safety of the public and the safety of the firefighters responding to that particular situation.

Integrating these teams of professionals with part-time people working occasional shifts or occasional calls reduces the quality of the service, places the public at greater risk, places the professional firefighter at a greater level of danger, and in fact also puts the part-time employee at a greater level of risk as well.

Firefighters are trained as teams, and work as teams under conditions that anyone who is not a firefighter could not possibly understand. If you had the opportunity over the past several years to see the movie *Back Draft*, you could get a clearer understanding as to how teams of firefighters were required to work under extreme conditions in dealing with a severe fire situation. Although there were scenes in the movie that were developed for public viewing, the situations that were portrayed throughout the movie were real. Picture, if you can, being a firefighter in this same type of a situation that you witnessed in the movie, without having the luxury of sight. Fire provides very little visibility for firefighters, or none at all. Every firefighter in these situations must know exactly what the rest of his team is doing, where they are, and how they are going to react should the situation worsen or they become trapped. These are not the types of situations that one wants to be in with someone who is an occasional firefighter.

Bill 84 goes even further to make other changes that allow the fire chief to maintain a skeleton crew of firefighters on duty, and give him the power to order in firefighters who are off duty to come in to work and assist in situations he deems emergencies. This means that a council could reduce the number of firefighters it has on staff by simply being able to order off-duty personnel back to work each time they considered it to be necessary. Instead of perhaps four firefighters responding with the engine to your residence and these four firefighters having the ability to begin some element of firefighting or rescue, this could result in having one firefighter responding with the engine and being able to do nothing upon arrival until a sufficient number of off-duty firefighters responded from their home or supermarket or local pub.

In municipalities where full-time departments are required, this type of situation must not be permitted. It puts the public at great risk, the firefighters at risk and will result in greater property losses. Just imagine having a fire truck pull up in front of a nursing home involved in a fire, with only one or two firefighters on that vehicle. By the time additional staff arrive, panic and confusion will already have begun and people will die, not only the residents of the facility but firefighters and others involved in making any type of an attempt at rescue. Why would the government want to open the door and even provide the opportunity for a reduction in the level of fire service?

1630

There are a number of items in Bill 84 that will have an indirect effect on the delivery of fire service in Ontario. Section IX of the bill provides for a number of changes that do not go to the issue of public safety and only go to the issue of reducing the rights of firefighters and turning the labour relations between management and the rank and file into an adversarial and confrontational format.

Bill 84 takes away the right of the firefighter to bargain his or her hours of work and their work schedule. This issue has never been a problem in the province of Ontario and has absolutely nothing to do with public safety. Because of the unique system of work schedules



of firefighters, giving the employer the arbitrary right to alter or change the days of work or the type of schedule can have a dramatic affect on the firefighter and his or her family.

I just want to divert from the brief for a second. When we talk about privatization and those things — the question was raised with some of the previous speakers, “Would your municipality enter into privatization?” and “The bill really doesn’t promote or open the door for privatization” — when you look at all those things that I’ve just talked about, changes in the hours of work, part-time firefighters, no provisions in the bill for successor rights, all these things are conducive to Rural/Metro and other organizations that want to privatize. That’s, in my opinion anyway, why a lot of those things are in this bill.

When you talk about “would municipalities do it,” I can tell you quite personally of my experiences across the province of Ontario. I don’t think there’s a municipality that has a full-time fire department I haven’t been to on a number of occasions, either assisting with collective bargaining or with disputes or dealing with other matters of reduction of services in those departments. I had the opportunity to fly back from Kapuskasing with Mike Harris, who at that time was not the Premier. In Kapuskasing the mayor, who most of you know used to be a member of Parliament, wanted to eliminate the full-time firefighters. I was in there to assist with that problem and I can tell you quite frankly Mike Harris had no sympathy for my particular cause. Had the opportunity arisen and had we not been able to do the things we did, that department would have been eliminated. So there is a threat. Whether you wish to believe that or not, it’s real and it’s there.

The bill requires a mandatory obligation on both the employee and the association, the bargaining unit, to bargain in good faith and make every reasonable effort to effect a collective agreement. However, the bill does not provide for any specific enforcement mechanism with respect to this requirement. Under the Labour Relations Act, the labour board is provided with the authority to hear and determine complaints concerning violations of the act, but that authority is not specifically included in Bill 84.

Under the current Fire Departments Act, existing collective agreements continue year after year unless they are amended through collective bargaining or arbitration. This obviously provides for a smooth transition through the process of collective bargaining. Under Bill 84, collective agreements will terminate, meaning no collective agreement, no work.

Bill 84 provides for decertification of bargaining units. This provision does not exist in the current Fire Departments Act. This could result in a firefighter association being decertified at a specified time related to the expiry of the collective agreement, where a petition is circulated among employees and submitted to the Ontario Labour Relations Board and the petition indicates that no less than 40% of employees wish to terminate the bargaining rights of the existing trade union, whereupon a vote will be conducted by the labour relations board. If 50% of the employees vote to terminate the bargaining rights of the association, the association would no longer have the

right to represent the employees and the collective agreement would terminate.

Under the current act, the fire chief and the deputy fire chief are excluded from the bargaining unit. In most departments, the chief and deputy work from 9 am to 4:30 pm, Monday to Friday. For the remainder of each day, the general operations of the department are controlled by the officer or officers on duty. In the event of a major emergency, the fire chief and/or deputy may be called to the scene and may or may not take command of the situation. Generally speaking, this system has been in existence for years and has not created any difficulty in firefighting operations that we are aware of.

Bill 84 provides for council to designate numerous people in the bargaining unit as managers and excludes them from the bargaining unit. There are two mechanisms in Bill 84 that allow this to happen. Section 58(3) allows for council to designate managers based on the size of the department. These designations are at the sole discretion of the employer and are not subject to review by the labour relations board. This means, for example, that in the city of Windsor with 275 employees, the employer would be allowed to designate four people as managers, arbitrarily and with no appeal.

The employer also has the right under the proposed legislation to identify certain employees as managerial or confidential and remove all those employees from the bargaining unit too, the only difference being that these positions are subject to review before the Ontario Labour Relations Board and it would be incumbent upon the association to file an appeal before the board.

What does this mean in terms of exclusions from the bargaining unit in the city of Windsor for an example? The corporation could designate, as an example, four district chiefs or four captains or four employees from any other division within the department as managers. The designated employees have no option but to leave the association and forfeit their rights under their collective bargaining agreement. The employer can also designate as many other people as it deems — who it suggests perform managerial or confidential jobs and declare them to be managers.

The employer could, in the city of Windsor, for an example, appoint me as a district chief, appoint me as a manager and three other district chiefs as managers. It doesn’t have to appoint the chief or deputy yet because now it can declare all these other people it wants as managers and now it’s going to appoint — your council will say, “Okay, the chief’s a manager, the deputy chief.” Obviously we’re not going to be able to defend that before the labour relations board, so there are a couple more people gone.

Then we have to go through the process of defending before the labour relations board all these other people they deem to be managers who have already now been taken out of our bargaining unit before we have the opportunity to even go down there and then we have to go through all the process.

Firefighting is a very unique profession. As I stated earlier, the success of our tasks depends upon teamwork. Officers and firefighters working as a team have been the element of success since professional fire departments



were established. The need to have a part of the team union and a part of the team management is simply not founded.

In summary, Bill 84, although providing some improvements in the delivery of the fire service, sends a message to municipalities, fire chiefs and firefighters that it is better to be confrontational and adversarial in the way we do business in the fire service because the bill will only promote that if it passes as it is written.

It is very obvious to me that Bill 84 was very hastily put together. Had proper and meaningful discussions and consultation taken place between all parties involved in the delivery of the fire service, perhaps it would not have been necessary to go through the exercises that have occurred because of Bill 84. This bill has created a sense of frustration and fear in the firefighters and members of our communities that should not have occurred.

I urge the government to reconsider the passing of Bill 84 at this time until reasonable solutions can be developed and a new act, if necessary, be created to benefit everyone involved in the fire service, especially the communities we serve.

Just to make a final comment: If you can see from my presentation the difficulties that are going to occur or have the potential to occur through Bill 84 if it's passed, think of the problems that have already been created. You've got fire chiefs fighting against fire chiefs. Already you've got associations throughout the province having difficult times at the bargaining table now, because you've got a human resources group which has submitted to the government, saying: "Bill 84 isn't good enough as it is. We need more. Add more to it." You have AMO doing the same thing — we've got copies of all their briefs — saying to the government: "Give us more. That's not enough. We want more. Take more away from them."

Yet, you've got a community like here in the city of Windsor where you have a council that doesn't endorse that. They don't endorse that philosophy. The reason they don't endorse it is because of what we've developed here in the city of Windsor. The only reason we developed is because of all the thing we talked about here about teamwork, that we run the city as a team. The city council, the firefighters and the administration work as a team to develop our entire program. It's successful and we did it under the current act. We didn't need all this and neither does anybody else in this province.

**The Chair:** Our time has elapsed, but on behalf of the committee I think I can say this is one of the best briefs we've had from any of the associations, a very reasonable approach. Thank you very much.

URSULA VESELKA

**The Chair:** Ursula Veselka, good afternoon.

**Ms Ursula Veselka:** Good afternoon. My name is Ursula Veselka. Thank you for the opportunity to speak to you today. Please excuse my voice; I've got a nasty cold.

When the Windsor police knocked on my door the morning of January 15, 1997, believe me, it was the last thing in the world that I expected. They said that my

brother was in a fire and that it was bad and they expected the worst. They stayed with us and took us to the hospital.

I was in shock that day, seeing Tommy swollen, leaking and on a respirator. Seeing his room that day, it looked like a barbecue pit. Everything he owned was black and melted: his clothes, his shoes, his TV, his radio and so was he; 85% of his body was deep, third-degree burns and some fourth-degree, no skin, just roasting flesh. His lungs were badly burned and the inside of his mouth and throat as well.

Now it's three months later and Tommy is very much alive, but that's not what anyone expected. They had given him a few hours at the very best. He was on a respirator for only the first two weeks. My mother and I spoke into his swollen, oozing ears words of encouragement, prayers and told him that he'd be okay and not to be afraid, but that if it was too much for him, to let go.

1640

One day he opened his eyes. Within days he was talking. I got him his new glasses. They moved in a TV. There have been a couple of times that were scary due to infection, but with antibiotics, the excellent care of the burn team and Tommy's will to live, he bounced back.

We have developed a routine. I go to see him every day, at least a couple of hours. I wipe his eyes. I clean his glasses. I put Vaseline on his lips, and then we added sips of water. He can talk if I put my finger over his trach tube. The first time I gave him water, he said: "Not too strong, eh? Maybe the next one." So I know he still has his sense of humour.

It's a very long and painful process. Tommy is considered quite a miracle and continues to amaze the burn staff. I am very proud of him and his courage in dealing with his situation.

Tommy often says that he's ready to leave the hospital. He talks about leaving a lot. He doesn't like the pain of tubing and debriding and dressing changes. He's totally dependent on other people right now and that hurts his pride. But this I do know: He's glad to be alive. When I tell him of different people who ask about him, he says, "Just tell everybody I'm doing fine." He says the body will heal itself eventually and that he is not worried about it, that whatever will happen will happen. Last week when he complained about the pins in his fingers, I told him I understood that it's no fun being in there and he answered with, "It's no fun being dead either."

I guess I said all that to say this: No one expects anything like this could ever happen to themselves or a family member, but it could very well happen to you or to someone you love: parents, children, grandchildren, a spouse or a very close friend. It doesn't even have to be in your own home. In Tommy's case minutes, I'm sure even seconds, meant the difference between life and death. It was a team effort for the firefighters. They knew exactly what to do and they did it fast. They got him down the three flights of stairs and out to the ambulance, and then the team at the emergency did their part. In the case of someone you love, it could mean the difference between a burn and no burn or the difference between a bad burn and less severe scarring. Seconds could save fingertips, hands or toes, legs, perhaps a nose or an ear.

I really don't see how a community the size of ours can afford to give up the safety that comes with a trained and experienced fire department and a team of firefighters who can count on each other and count on their equipment for maximum efficiency in a number of very unpredictable situations: highrises, chemical fires, whatever. We have a system that works.

In addition to this, they also do a wonderful job in fund-raising. I can't imagine any private organization doing what they do. Actually, they have an auction this Saturday for the survivors of burns and they have their smoke detector program.

We have a system that works. Please don't risk your lives and others. Vote against Bill 84 unless it's amended.

In conclusion, I would like to present these petitions bearing the signatures of 27,542 citizens of Ontario concerned about Bill 84 and fire safety in our communities. They are in addition to the petitions you have already received. Please listen to the people.

**The Chair:** Would you like to answer a few questions? We have time. Do you feel up to it? It's totally up to you.

**Mr Kormos:** I can't think of a single question that hasn't already been answered. Ms Veselka, God bless.

**The Chair:** I think that's fair, Mr Kormos. Thank you very much, Ursula.

#### JOSEPH EGAN

**The Chair:** Our next presentation is Joseph Egan. Good afternoon, Mr Egan.

**Mr Joseph Egan:** Good afternoon, Mr Chairman.

**The Chair:** Get yourself settled comfortably and then you can proceed.

**Mr Egan:** Thank you very much, and I thank you for the opportunity to speak to this august body.

My name is Joseph Egan. I am a retired electrical contractor from Sarnia and I am frightened. Yes, I'm scared out of my wits. When I was asked by the Sarnia firefighters to come here today to tell my concerns about Bill 84, I was glad because I want to express my fears, not only of Bill 84 but of many changes the Common Sense Revolution is making.

I spent years on the North Atlantic during the Second World War. I operated a construction business for 35 years. We raised 10 kids. I was often scared but never this bad. I am frightened for myself, my family and the people of Ontario. I'm frightened about what Mr Harris is doing, often by regulation, under the guise of democratic government.

Just an example: I have a balance problem. My doctor decided I should see a neurologist. That took three months. Dr McGinnes, the neurologist, decided I should have an MRI, magnetic resonance imaging. That took another three months and a trip to London. Three weeks later the test results were available. No one has discussed them with me. The health system in Ontario is failing. I have a nephew who is a doctor, a specialist in heart and lung surgery; he works in North Carolina. I have a niece, a trained intensive care nurse; she works in California. I don't know what the problem is but when the group that drew up the blueprint for Metro hospital closings says the cuts have gone too far, I become very concerned. In

Ontario we are becoming too complacent as our freedoms are eroded.

I will explain briefly how I came to be involved with the Sarnia Fire Department and the probable reason I was asked to be here today.

On January 25, 1985, our 25-year-old daughter died in a house fire. She had just moved into the second-floor apartment in an older house. It was the very first apartment she was not sharing with someone else, and she had grand ideas and plans. Unfortunately there were no smoke alarms. The poison gases from a fire in the apartment below hers killed her during the night while she slept.

Frances was one of 10 children. At the time, her next-older sister Vici was teaching in Nigeria with CUSO. Her village was hours from the nearest telephone and we had a hard time getting in touch with her. She reached London, England, knowing only that she had a sister who had died but not knowing which of her four sisters. Mary-Jane turned 29 the next day. She can never forget that birthday.

#### 1650

The delay in completing funeral arrangements gave us time to think. It was very difficult to accept that a device costing \$10 would have prevented this tragedy. One of our sons, Larry, recalled that the Sarnia Kinsmen had been promoting the use of smoke alarms. We were able to organize a scheme for the promotion of smoke alarms jointly with the Kinsmen. Andy Brandt became our honorary chairman. In lieu of flowers at the funeral, we requested donations to the Frances Egan Foundation. We tried to mitigate our grief by becoming very active in promoting smoke alarms. Our family and friends conducted blitzes in the older part of Sarnia. We installed smoke alarms and batteries. Local 530 of the IBEW volunteered to install the smoke alarms we provided. In recognition of our efforts and to encourage the use and testing of smoke alarms, our family and the electricians were presented with impressive plaques by the Solicitor General at a ceremony at Sarnia city hall. This continues to this day but not as often.

We were instrumental in having a bylaw passed by Sarnia city council making smoke alarms mandatory in residential buildings. Every school child in Lambton county now knows that regularly tested smoke alarms are essential in the home, but I find no mention of this in Bill 84.

We learned of a program the Ottawa fire department was using in the Ottawa schools. In a van with props they could simulate a house fire in the school auditorium. We brought the program designer to Sarnia with his van and demonstrated it to the Sarnia fire department and to several schools. I was able to convince the Sarnia Rotary Club to provide similar equipment to the Sarnia fire department. It is currently used to teach how to get out alive to Lambton schoolchildren and occupants of homes for the elderly, but because of understaffing, the firefighters often do this on their own time.

Seven years ago, at the time of the amalgamation of Sarnia and Clearwater, it was decided to close the Sarnia fire department main station on East Street and use as the main station the Wellington Street station, miles further



from the hospitals and the old city. I organized the efforts of a lot of people and East Street station remained open. It is again the main station. City council had hidden behind a recommendation by the fire marshal's office that this was a good move but serious sensible study proved it wrong. Recently the fire marshal's office recommended closing the Wellington Street station. This decision was reached through the use of an infallible computer program.

City council was convinced by a petition by the Sarnia firefighters and the pleas of 11 concerned citizens, including myself, to maintain all five stations, properly manned. Last Monday the council reversed their decision and the question is again in limbo. We believe that some of the Sarnia city council are hoping that the passage of Bill 84 will permit them to properly man the stations with part-time people. This can only put the firemen and the public at grave risk for the sake of a few dollars.

But I'm afraid this government will pass this bill. Look at what is happening to the megacity legislation. Hundreds of people made excellent presentations and the majority of the citizens oppose it. But who cares? Only the dollars seem to be important.

For many years I have investigated fires, fatalities, explosions and accidents for insurance adjusters and law firms. Please believe me when I say that quick response by well-trained, properly equipped firefighters with confidence in their partners is essential for saving lives and property. That's what we have in Sarnia now, short-staffed, I'll admit, but we must not allow Bill 84 to lower these excellent standards.

I investigated a fire where three people died. The fire hall was less than a mile from the scene but slow response time cost three lives. It was a volunteer fire department.

I would also like to bring to your attention that draft Bill 84 states that a number of acts will be repealed; one of them is the Lightning Rods Act. I talked to Dave Horn in the fire marshal's office and was told it will not be replaced. On checking with lightning rod manufacturers, I found the situation which is so typical of the Common Sense Revolution: They had not been consulted.

When a majority government proposes an outrageous new law like Bill 84, parliamentary debate at least provides a chance for the opposition to tell the public exactly what the scoundrels they so foolishly elected are about to do to them. Sometimes, when a strong light is shone on their nasty work, the rascals will retreat. The more obstacles we can place in their paths, those who would run our lives, the greater will be our chance to run our lives ourselves. We should never give up the tiniest portion of our defences against despotism.

When I talked to one of the lightning rod manufacturers, he was surprised to know that this act was repealed. I asked him if he would check with the others and get back to me. This is what he sent me the other day, a fax:

"Dear Mr Egan:

"This letter is issuing a complaint against the issuing of the Bill 84...act, which if enacted will delete the Lightning Rods Act of Ontario from existence.

"In the interest of fire safety and protection of life and property, the lightning rod...regulations should be kept in place and active. For many years the lightning rod industry in Ontario has been licensed and monitored with field inspections by the fire marshal's office in Ontario to provide high-quality products and safe installations ensuring protection and safety for the people of Ontario....

"Heary Bros Lightning Protection Co Ltd family has been in business for over 100 years and I have been on the National Fire Protection Association Committee for lightning protection systems NFPA780 and proposed NFPA781 for over 30 years.

"Enacting of...Bill 84...is not in the best of interest to consumer protection and safety in Ontario. It will generate all kinds of unethical activity and personal damage to the people of Ontario and the installation of unsafe lightning rod systems.

"As of this date, Heary Bros Lightning Protection Co Ltd is the only company of three in Ontario who have been contacted and told the Lightning Rods Act of Ontario is being deleted in Ontario.

"The Lightning Rods Act of Ontario, which dates back to the early 1900s, would not have existed for all these years if there was not a need for the quality control and safety protection of the people of Ontario.

"Bill 84...should be sent back to committee for review as to the many systems that have been deleted by issuing this bill.

"In the interest of protection and for the safety of the people of Ontario, no system of such importance as the Lightning Rods Act should be deleted by Bill 84....

"Regards,

"Kenneth P. Heary, president

"Heary Bros Lightning Protection Co Ltd."

I have a terrible feeling that I'm wasting my time here today. I hope I'll be disappointed when I see the results. Thank you very much.

**The Chair:** Thank you very much, sir. Our time has elapsed. On behalf of the committee, thank you for your presentation.

Mr Wood advises he has three documents from the ministry that were provided in answer to questions raised by members. Rather than have him read them into the record, I will give them to the clerk and he will distribute them.

**Mrs Pupatello:** Mr Chair, is one of them concerning the issue of the interpretation of the privatization clause? If you could just report on that one quickly, please.

**The Chair:** Is it?

**Mr Bob Wood:** Yes, it is.

**The Chair:** Fine, just read it into the record then if that's the request.

**Mr Bob Wood:** I'm not going to read it into the record.

**The Chair:** We will file them and you can obtain copies from the clerk.

**Mrs Pupatello:** You guys are just ridiculous.

**The Chair:** As our hearings have been completed, we are adjourning to Monday, April 21, 1997, at 3:30. Thank you very much.

*The committee adjourned at 1701.*





## **STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE**

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Mr David Tilson (Dufferin-Peel PC)

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Mr Gilles Bisson (Cochrane South / -Sud ND)  
Mr Dwight Duncan (Windsor-Walkerville L)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
Mr Bob Wood (London South / -Sud PC)

**Also taking part / Autres participants et participantes:**

Mr Howard Hampton (Rainy River ND)

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Mr Andrew McNaught, research officer, Legislative Research Service

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 21 April 1997

# Journal des débats (Hansard)

Lundi 21 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**

Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
Greffier : Douglas Arnott



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 21 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 21 avril 1997

*The committee met at 1550 in room 228.*FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** May I call the standing committee on administration of justice to order. Today is our clause-by-clause consideration of An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services.

There are two things I must do before we proceed with that. First, Mr Ramsay raised a point of order in which he required information regarding the duplication of two representatives, one from Sudbury and one from Owen Sound, both of whom seem to appear on behalf of the Ontario Municipal Human Resources Association. You will recall that there was a restraint as to time in scheduling these matters and the committee clerk advises that there was some real difficulty because of the changing. People would phone up, provide a name, not an organization, and he would slot them in, and then later on names would change and the organizations would change.

There were in fact other duplications. The Windsor fire department had both the chief and the deputy chief before us on two separate occasions, again because of the names and no organizations. The Windsor Professional Fire Fighters Association also had two individuals speaking on their behalf.

I can't help Mr Ramsay other than advising that individuals did phone and were representing their local municipalities, either the city of Owen Sound or the city of Sudbury, but they both seemed to be speaking also on behalf of the Ontario Municipal Human Resources Association.

**Mr David Ramsay (Timiskaming):** With the same brief, yes. Okay.

**The Chair:** Thank you, Mr Ramsay.

In regard to the scheduling of the continuation of the police services, we have more individuals who wish to speak than spaces. You left it to me and the clerk to continue with the scheduling. I wanted, however, some direction in regard to the following. The Police Associ-

ation of Ontario has requested an additional 15 minutes to answer questions. You recall they appeared before this committee. I thought, in view of the fact that it was a large stakeholder, we should give them that second opportunity and I have instructed the clerk to book them in. Is there any objection to that?

**Mr Peter Kormos (Welland-Thorold):** On Bill 105.

**The Chair:** Yes.

**Mr Kormos:** We're dealing with Bill 84 here.

**The Chair:** Yes, I realize that.

**Mr Kormos:** I'm ready to speak to issues concerning Bill 84. Go ahead.

**The Chair:** I just want to clarify this, Mr Kormos. You also made a request regarding an individual whom you wanted and he cannot be booked. Rather than going into personalities and names, at this stage he would not be booked because we're booking them chronologically. Did you want to make any representation regarding same?

**Mr Kormos:** At the moment I'm here to deal with Bill 84 and I have no idea whom you're speaking about.

**The Chair:** Fine. We will proceed to the bill then.

The first order of business is the consideration of section 1 of Bill 84.

**Mr Ramsay:** Part I?

**The Chair:** Part I.

**Mr Kormos:** On a point of order, Chair: I received at 2:30 pm — I made a note of the time when a page delivered the package of government amendments to me — while I was in the chamber during question period, a set of what purport to be government motions. I haven't even counted them yet; I'm sure somebody knows off the top of their head how many there are. There is a significant number of them. Some of them appear rather summary; others are rather lengthy.

I appreciate that the committee declined to indulge the parliamentary assistant in Windsor on Wednesday past with a deferral of the clause-by-clause consideration. I'm raising once again, though, the need, in view of the number of motions presented by the government and the fact that a large number of them are lengthy, at least wordy — and again, not having read them yet, I don't know whether they're complex or not. I suggest to you, Chair, that this committee is severely handicapped at this point by virtue of the large number of government motions, when committee members certainly — and I'll not speak for other caucuses but certainly from this caucus, having received them only at 2:30 — have not only not had a chance to (1) read them but (2) to analyse them and consult, quite frankly.

Look, I'm going to be very candid with you. Have we in the opposition consulted at length with the federation

and association? You bet your boots we have. There are no two ways about it. Quite frankly, I think it's important that they have a voice in the course of this. I'll be very candid with you: They are among the people with whom I would like to consult about these amendments and about the impact they have on firefighting services and how meaningfully they change the act.

Chair, you will recall that the former parliamentary assistant, the one prior to Wednesday of last week, was very candid throughout the course of almost two weeks of hearings in indicating that the government was listening and was going to be responding to submissions with amendments. I quite frankly want to ascertain whether in fact these amendments constitute the response and the responsiveness that the former parliamentary assistant spoke of during those points in time.

I'm suggesting once again, for an entirely different reason than I spoke to this and made this motion on Wednesday past, a two-week deferral of clause-by-clause consideration. There doesn't appear to be any need for haste in the passage of this legislation through the House. This legislation is going to be long-lasting, or at least for two years, until the next government can rectify the errors of this government. But it's going to have great impact over the course of the next two years and I think it warrants serious consideration of a deferral for a mere week, in this instance, of clause-by-clause consideration so we can consider the impact of these amendments and also consider whether they reflect the commitment made by the previous parliamentary assistant that the government was going to respond to submissions made to it.

I am moving a one-week deferral of this clause-by-clause consideration for that very specific reason, sir.

**The Chair:** It is moved. Is there any further discussion in regard to Mr Kormos's motion?

**Mr Bob Wood (London South):** I can't support this motion. The timing of these discussions has been determined by the House leaders and certainly all the issues are now well known. I don't really think we're going to find that much out in the next week or two that we don't already know, so I think it's appropriate to proceed now. We're certainly here to answer any questions that the members may have and give clarifications where they are needed.

**The Chair:** Any further discussion? If not, I shall call the question.

**Mr Kormos:** Recorded vote.

**The Chair:** All those in favour of Mr Kormos's motion?

**Ayes**

Kormos, Ramsay, Len Wood.

**The Chair:** All those against?

**Nays**

Doyle, Guzzò, Klees, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The motion fails.

**Mr Bob Wood:** You'll note which Mr Wood voted for and which against, I hope. Thank you.

**Mr Kormos:** On a further point of order, Chair: The committee has present with it in the committee room currently many of the same people who were participants in the hearings; not all of them, but many of the same people. I am eager — and I quite frankly don't know — to determine whether or not the clerk has provided those people — I know there are people here from the fire marshal's office, from the various firefighters' collective bargaining representative groups. I am eager to find out whether they have been provided with sets of the amendments.

**Mr David Tilson (Dufferin-Peel):** Are you going to go out in the streets and ask as well? How far are you going to go?

**Mr Kormos:** Please. I'm going to go as far as I feel I have to go for the sake of preserving some semblance of process here, Mr Tilson.

*Interjections.*

**The Chair:** Excuse me, gentlemen. We have a point of order. If I may, I'll read from section 75 of the standing orders: "When time permits, amendments proposed to be moved to bills in any committee shall be filed with the Clerk of the House at least two hours before the bill is to be considered, and copies of such proposed amendments shall be distributed to all parties."

I do not therefore understand your objection. You were talking about the public. What portion of the rules were you referring to in your point of order?

**Mr Kormos:** I'm referring to the fact that there are people present in this room who have indicated through their participation in the process over the course of the last two weeks of public hearings a strong and direct interest in these. I'm requesting that the Chair consider the availability to them. Once these things have been tabled with the Clerk, they're public domain, so to speak. I'm interested in ascertaining whether or not those same interested parties have received a copy of them, not pursuant to the rules but perhaps pursuant to fairness, if that's not beyond the capacity of the Chair.

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**The Chair:** I'm sorry, I would have to rule against you in regard to that. It is not covered by the rules, and I do not think that is a proper point of order, Mr Kormos.

**Mr Kormos:** Pursuant to that point of order, I am moving that the clerk make available over the course of the next 30 minutes copies of these amendments to interested parties, be they in this room or beyond. A 30-minute time frame isn't such as to be, what's the language, "dilatatory," and would enable interested parties who have expressed an interest in this and indeed who have a strong interest in the outcome of this legislation to follow in a meaningful way the progress of the government amendments through the course of today and tomorrow afternoon.

I move that the clerk provide, within a period of 30 minutes, any interested parties — some of them may well be in this room; I can see some of them nodding — with copies of the government amendments. That is moved. There may or may not be a debate on it, but there will certainly be a vote and when there is a vote, I'm going to call for a recorded vote, please, sir.



**The Chair:** Thank you, Mr Kormos. You acquired the floor on a point of order, which I ruled upon. You do not have the floor in order to make a motion. I was moving to the Liberal motion of amendment to subsection 1(1), definition of "fire department."

**Mr Ramsay:** On a point of order, Chair: I was wondering if we could set aside the definition in part I and move on to part II of the act, so that we could maybe deal with those at a later time. We could start with part II, as there are maybe some contentious areas in part I with the definitions and it would give us more time to think about those amendments. I'm certainly prepared to go down to part II, III, IV, V, etc and move on.

**The Chair:** The suggestion has been made by Mr Ramsay, in order to expedite our discussions of this bill, that we proceed to part II and come back to part I at some later time during the deliberations. To do so, I believe I would require unanimous consent. Is there anyone who stands in opposition to Mr Ramsay's suggestion of setting down part I?

**Mr Bob Wood:** I'm not quite opposed yet. What I would like to understand is, why wouldn't we deal with this numerically? Is it not confusing if we don't do them subsection by subsection? I haven't grasped the merit in not doing it number by number.

**Mr Ramsay:** It's only because it contains the definitions, and I think there are some contentious issues there. We might get on with some of the parts of the bill that there is probably agreement on first, and maybe get through some of that. I'm just thinking that might be a good way of doing it, and come back to part I later on. We could move on to areas I think we could move pretty expeditiously.

**Mr Bob Wood:** I'm probably simple-minded, but I think we'd better do it in order.

**The Chair:** We do not have unanimous consent.

**Mr Kormos:** Point of order, Chair.

**The Chair:** One second.

**Mr Kormos:** Thank you, Chair.

**The Chair:** No, one second, Mr Kormos. I was just dealing with it. We do not have unanimous consent and therefore Mr Ramsay's request cannot proceed. Therefore, we will be going back to part I. Now, Mr Kormos.

**Mr Kormos:** You seem to have been reluctant to have heard me in the past. You won't be having difficulty hearing me from this point on.

I'm going to move beyond that and seek unanimous consent that we go directly to part IX, which, as even the most simple-minded government member of this committee understands, is the viscera of the legislation. We only have two afternoons to deal with this. At the end of that, there will be no more consideration of these amendments or clause-by-clause. Part IX is the one the bulk of the amendments on the part of our colleagues in the Liberal opposition appear to address. That is certainly what the bulk of the amendments from the New Democratic Party address. I suggest that it wouldn't be overly complex to move to part IX, and avoidance of that would be a recognition that parts I through VIII will consume all of today and tomorrow and make any debate about part IX and the various amendments to the extremely complex part IX impossible.

So I'm seeking unanimous consent that we move directly to part IX and defer consideration of the others. Of course, if they aren't reached by the end of tomorrow afternoon, you know that the time allocation motion provides for them to be dealt with by reach of the time allocation motion. That seems to me to be a somewhat logical proposition, and I seek unanimous consent in that regard.

**Mr Bob Wood:** Consent is denied, Mr Chairman.

**The Chair:** Mr Ramsay?

**Mr Ramsay:** No comment.

**The Chair:** No, I'm sorry. I was proceeding, Mr Ramsay. We did not have unanimous consent, and therefore I am proceeding to the first motion of amendment, which I understand is a Liberal motion numbered "1."

**Mr Ramsay:** Thank you, Chair. I move that the definition of "fire department" in subsection 1(1) of the bill be struck out and the following substituted:

"'Fire department' means a group of firefighters employed by a municipality, group of municipalities or by a party to an agreement to provide fire protection services made with the fire marshal under section 3."

**The Chair:** The motion has been made. Is there any discussion in regard to the motion made by Mr Ramsay?

**Mr Kormos:** We're supporting this amendment. Among other reasons, it's identical to the amendment that we proposed. No great surprise in that regard.

It appears, and I'm confident that Mr Ramsay will elaborate on this, to address the issues that were addressed by Mr Ron Johnson from Brantford and Mr Carr, the former parliamentary assistant. By God, neither of them are voting members of the committee today. Both of them had expressed some concern about the prospect of privatized firefighting services. Both of them had indicated to the public and to the committee, Mr Carr as parliamentary assistant, his gut opposition to privatized firefighting services and had suggested to a number of people that the government may well abandon that.

It seems to me this amendment does that. It would seem to give effect to the commitment made, at least at an informal level, by the parliamentary assistant, and it's a reasonable one under the circumstances and will certainly clear one of the most serious concerns that the general public has about the quality of firefighting services in the province if this bill passes without this amendment.

**Mr Bob Wood:** Mr Chairman, the government will not support this particular amendment. We agree that some modification of the definition is needed. We're going to present our own amendment.

Do we have copies of the first few government amendments now available? We're going to attempt for members of the audience to get copies of these amendments available so they can peruse them, if desired. So very soon, at the back, someone should appear with copies of amendments.

**Mr Ramsay:** I was certainly going to speak on my own amendment. I just read it into the record and I thought maybe you'd recognize me back, then, for comment, but that's fine. I'm pleased to have the support of my colleague from the third party on that amendment.

I think it's very important. As my colleague has said, it really strikes at the very crux of this legislation in that a lot of what this legislation is about is moving fire and emergency services out of the public domain and into the private domain. I think the Chair and others would agree that over the seven days of hearings that we heard, both here in Toronto and across the province, this was the number one issue expressed by the vast majority of presenters before us.

They're concerned that, with all our zeal to restructure and to reinvent government to try to provide better and more effective and efficient services for taxpayers, of all the government services that are out there, our fire and emergency services in Ontario probably act the way the public perceives all government should act, in that it's immediate and it's responsive. I think it's very cost-effective also.

It starts from the very beginning with the definition of "fire department." I'm sure the parliamentary assistant would see that the definition of "fire department" that stands in the bill at this time means a group of firefighters authorized by a municipality, and of course the difference in my motion is that a fire department means a group of firefighters employed by a municipality. Those are the operative words here: "employed by."

Time after time over the last two weeks, in all the locations that we travelled to across the province, presenters were adamant that if we were to continue to have a timely fire and emergency service — and I think it was stressed over those two weeks that a timely, effective service is what made our fire and emergency services in Ontario such a success — it had to remain in the public domain and that in fact we had that service right today, that we had the organization and the delivery of that service delivered in a way that the vast majority of Ontarians accept and applaud.

1610

It really is a crucial part of this bill. It comes right off the very beginning of this bill, and that is, what constitutes a fire department. I think we saw and heard examples over that two-week period of other jurisdictions where governments, in their zeal to restructure, thought that maybe contracting out for a fire and emergency service with a private concern was the way to go. It seemed to me that during those presentations, as my colleague has mentioned, many of the government members nodded their head and agreed, and in fact two of them, who are not here today, unfortunately, seemed to agree that at least as far as fire suppression services are concerned, for sure, it was not appropriate to privatize that aspect of the fire and emergency service in Ontario. Later on you will see some amendments that deal specifically with that, that will give those people, if they return to this committee, an opportunity to maybe voice that agreement.

But what we're dealing with here is the definition of a fire department, and that being in the direct employ of a municipality. I would hope that the government members, having heard — and I'm not sure, Chair, what number it was that we heard, but in 15-minute intervals over seven days a large number of presenters in Ontario voiced their concern against the provision that Ontario municipalities could contract out their fire protection

services — that the government members would speak on behalf of and vote for this amendment today.

**Mr Tilson:** I have a question for Mr Ramsay on his amendment, and it has to do with the word "employed." My question has to do with the volunteer firefighters around this province. I know in my riding we have four of them. Is your intent that a fire department would not include volunteer firefighters?

**Mr Ramsay:** No, that's not my intent.

**Mr Tilson:** The difficulty is, that's what you've called a fire department. We have four fire departments in my riding. We have one in the town of Caledon, one in the town of Orangeville, one in the town of Grand Valley, one in Honeywood, I think — I can't remember — and they are all volunteer. They are fire departments. If you follow your definition, they are no longer fire departments.

**The Chair:** Mr Klees.

**Mr Tilson:** I'm interested as to what his response would be.

**The Chair:** Do you wish to answer, Mr Ramsay?

**Mr Ramsay:** Yes, I do. I guess I disagree with your interpretation, Mr Tilson, of that. My understanding is that a volunteer fire department is organized by the municipality and, as such, I suppose you could debate the definition of "employed," but certainly they are employed by the municipality to act as firefighters. They do that on a volunteer basis, but they are directly organized under the sponsorship of the municipality. So I do not believe that my definition of "fire department" would exclude volunteer fire departments in Ontario.

**Mr Tilson:** I can't support the amendment because I wouldn't be doing the service to the firefighters in my riding. Clearly, if that's what your definition of a fire department is, "employed" suggests a salaried firefighter. There are many salaried firefighters in this province and there are many volunteer firefighters in this province, and the volunteer firefighters are not employed. They do it in a volunteer fashion. So I can't support your amendment.

**The Chair:** Before we go to Mr Klees, we have 16 correlated copies of the amendments — the ones you have are separate as to party — and it's been suggested that we could distribute that to the stakeholders and later this afternoon provide each member with a correlated copy. How many members, stakeholders or individuals would be interested in receiving a correlated copy so they could follow the clause-by-clause?

Okay, that's going to take most of them. Is there any objection to proceeding in that manner? If not, I instruct the clerk to do so.

**Mr Kormos:** Not at all, Chair. I am pleased that you acted upon my urging.

**The Chair:** That's fine. Now, Mr Klees.

**Mr Frank Klees (York-Mackenzie):** Actually my question was really the same as Mr Tilson's on the issue of "employed," because in my riding we have three fire departments that are volunteer: Nobleton, Schomberg and King City. I know from my discussions with the municipality, as well as the firefighters, that they certainly don't consider themselves to be employed. That was my question.

But I have a second question as well. When you say that the group of firefighters are "employed by" and you



refer to a party to an agreement, I am very interested to know who you mean by this third party to an agreement. If in fact the purpose of your amendment is to exclude a third party, someone other than a municipality, whom did you have in mind as being this party to an agreement?

**Mr Ramsay:** This could be a fire service board in an unorganized municipality. It's not really classed as being a municipality. It's the local service boards and so on that have agreements with the fire marshal. They're not recognized as being a municipality because they're unorganized.

**Mr Klees:** I think the way you've worded this amendment would certainly leave it open to interpretation that this could also be a private sector entity. Because of the fact that it does refer to "employed," and I think that volunteer firefighters are entitled to have their firefighting efforts within a municipality referred to as a fire department, and because of the lack of clarity in the reference to the word "party," I too will not be supporting this amendment.

**Mr Kormos:** Chair, why couldn't the parliamentary assistant, on behalf of the government, just cut to the chase and cut the crap here? The fact is that an amendment to this definition is necessary, as would be an amendment to subsection 41(1) in terms of "employer," if the government were serious about not entering into the brave new world of private firefighting services.

By denying this amendment, the government leaves the door open, and you'll note that the government's amendments do not include an amendment to subsection 41(1), which redefines "employer." If Mr Wood would only come forth and say, "No, the government is not going to support anything that isn't consistent with its desire for privatized firefighting services," this whole exercise could be abbreviated, although we're starting to get the picture here, we're starting to get the message. Clearly the government members want to promote private firefighting services.

**The Chair:** Is there any further discussion with regard to the amendment? If not, shall the amendment of Mr Ramsay pass?

**Mr Kormos:** Recorded vote, Chair.

**The Chair:** Yes, the clerk was just taking his seat, Mr Kormos.

Shall the amendment carry?

#### Ayes

Crozier, Kormos, Ramsay, Len Wood.

#### Nays

Guzzo, Klees, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment fails. We will proceed to the next proposed amendment, which is that of the third party. Mr Kormos.

**Mr Kormos:** Withdrawn. The Chair could have moved it out of order.

**The Chair:** Yes, the clerk has just advised me of that. I thank you for your assistance. That amendment is withdrawn.

We will proceed to the third proposed amendment, which is a government motion.

**Mr Bob Wood:** I move that the definition of "fire department" in subsection 1(1) of the bill be struck out and the following substituted:

"'Fire department' means a group of firefighters authorized to provide fire protection services by a municipality, group of municipalities or by an agreement made under section 3."

1620

**The Chair:** Do you wish to speak to it, Mr Wood?

**Mr Bob Wood:** Very briefly. This amends the definition of "fire department" in a broader way to allow municipalities flexibility in the configuration of how they actually structure the delivery of fire services. For example, fire services can be provided by a single municipality, a group of municipalities or by an agreement.

**Mr Kormos:** A question to the parliamentary assistant: How does the amendment, which merely changes the words "or by agreement with the fire marshal to provide fire protection services," to "or by an agreement made under section 3," change the original bill?

**Mr Bob Wood:** I think it changes it the way it changes it, basically. I can't add to what I've already said.

**Mr Kormos:** But the original bill must have meant something, and then the government must mean something else now that it has amended subsection 1(1). I call upon the parliamentary assistant to explain the intent of this amendment as compared to the original bill.

**Mr Bob Wood:** I really can't add to what I've already said.

**Mr Kormos:** I'm sure you can't.

**The Chair:** Is there any further discussion before I put the amendment? If not, shall the amendment carry? All those in favour? All those against? The amendment carries.

We are proceeding to an additional government amendment, subsection 1(1).

**Mr Bob Wood:** I move that the definition of "firefighter" in subsection 1(1) of the bill be amended by striking out "a person" in the first line and substituting "a fire chief and any other person."

**Mr Ramsay:** Chair, could I ask the parliamentary assistant what the significance of that is?

**Mr Bob Wood:** Perhaps I can give a brief explanation of this. The purpose of this is to change the definition of a firefighter to clarify that a fire chief is also a firefighter. It's felt by many that this is important symbolically to firefighters. The amendment still allows municipal flexibility in hiring options.

**The Chair:** Is there any further discussion with regard to the motion? If not, shall the amendment carry? All those in favour?

**Mr Kormos:** Recorded vote, please, Chair.

**The Chair:** A recorded vote is requested.

#### Ayes

Doyle, Guzzo, Klees, Leadston, Parker, Rollins, Tilson, Bob Wood.

#### Nays

Crozier, Kormos, Ramsay, Len Wood.

**The Chair:** The amendment carries. We are now proceeding to another government amendment, dealing with subsection 1(2).

**Mr Bob Wood:** I move that subsection 1(2) of the bill be struck out and the following substituted:

"Interpretation of land and premises

"(2) For the purposes of this act, a reference to land and premises or to land or premises includes any buildings, structures or things situated on or attached to the land or premises."

This is a technical amendment. The amendment adds the words "or things" to clarify that the act and the fire code itself both apply to moveable things such as recreational vehicles situated on land, to boats attached to land, such as the dining boat moored in a local harbour or casino boats tied up at a dock.

**The Chair:** Any questions?

**Mr Kormos:** Would the parliamentary assistant please direct us to the section of the bill to which this definition is relevant?

**Mr Bob Wood:** Subsection 1(2).

**Mr Kormos:** No, but the definition is essential for concepts like "entry upon" or "entry into." I wonder if the parliamentary assistant would direct us to the section of the bill this definition is relevant to.

**Mr Bob Wood:** Subsection 1(2).

**Mr Kormos:** No, no. It says, "For the purposes of this act, a reference to land and premises or to land or premises includes any buildings, structures...." You're amending it by adding "or things." It says, "For the purposes of this act." I wonder if the parliamentary assistant could tell us where in the act there is a reference to land and premises or to land or premises, such that the inclusionary thing of land or premises or things applies.

**Mr Bob Wood:** This amends all of the act, so it applies throughout the act. The purpose if it, however, to focus on what I think you're attempting to elicit, is that if we don't do this amendment, it means that things like the boats on the river may not be inspectable, and we want fire inspectors to have the right to do that.

**Mr Kormos:** I'm just wondering if this applies only to inspections or whether it applies to actual fire suppression —

**Mr Bob Wood:** Throughout the act.

**Mr Kormos:** But does that include application to fire suppression so that it permits firefighters access on to or entry into those things, or is it restricted only to the fire marshal and other persons under his delegation of inspection authority?

**Mr Bob Wood:** I'm not going to repeat the answer a third time.

**Mr Kormos:** I want to know whether it includes not just inspection, because that's what the parliamentary assistant restricted his response to, or does it include also fire suppression?

**Mr Bob Wood:** It changes the definition throughout the act. That's the fourth and last time I'm going to say that.

**Mr Kormos:** Clearly the parliamentary assistant doesn't know spit from Shinola, but that's okay; we'll move on.

**The Chair:** Any further discussion in regard to the amendment?

**Mr Kormos:** Recorded vote.

**The Chair:** Shall the amendment carry?

**Ayes**

Crozier, Doyle, Guzzo, Klees, Leadston, Parker, Ramsay, Rollins, Tilson, Bob Wood.

**Nays**

Kormos, Len Wood.

**The Chair:** The amendment carries.

We're proceeding now to item number 6. I don't know whether they're numbered, because you probably don't have correlated — some members of the audience do. In any event, this is a government motion.

**Mr Bob Wood:** I move that subsection 3(1) of the bill be amended by striking out "fire marshal" in the first line and substituting "fire marshal, a services board established to provide services in territory without municipal organization or a prescribed person or organization."

This is a technical amendment. It expands the scope of fire service agreements and territory without municipal organization.

**Mr Kormos:** I have a question. How does that expand, in view of the fact that we're dealing with territories without municipal organizations, when you're adding to "fire marshal" a services board or a prescribed person or organization? I wonder what would be contemplated by that in an area without municipal organization. Firstly, you prescribe "person," secondly, "organization."

**Mr Bob Wood:** I think it's a device that's in the act in order to permit what I outlined earlier.

**Mr Kormos:** I'm sorry, I didn't hear that.

**Mr Bob Wood:** It's a device put in the act in order to permit the expansion of the scope of fire service agreements in territory without municipal organization.

**Mr Kormos:** But, Chair, if I may, what is being contemplated by "prescribed person," in the one instance, or "organization," in the second instance, when the government presents this amendment with this new drafting?

**Mr Bob Wood:** Exactly what I said.

**Mr Kormos:** The Hansard should show laughter on the part of Mr Kormos, please.

**The Chair:** Is there any further discussion in regard to this amendment? If not, shall the amendment carry?

**Mr Kormos:** Recorded vote.

**The Chair:** A recorded vote is requested.

**Ayes**

Doyle, Guzzo, Klees, Parker, Rollins, Tilson, Bob Wood.

**Nays**

Crozier, Kormos, Ramsay, Len Wood.

**The Chair:** The amendment carries.

Proceeding to item number 7, a government amendment.

**Mr Bob Wood:** I move that subsection 4(2) of the bill be amended by striking out "fire marshal" in the third line and substituting "fire marshal, a services board or prescribed person or organization to provide services."

This is, like the previous amendment, a technical one and expands the scope of fire service agreements in unorganized territories.



**The Chair:** Any discussion?

**Mr Ramsay:** On a point of order, Mr Chairman: Is there not an amendment for subsection 4(1)?

**The Chair:** That's 4.1. That would be the next one over.

Is there any further discussion?

**Mr Kormos:** Please, Chair, once again, in the original text of the bill, in subsection 4(2), it was indicated that "a community fire safety officer or a community fire safety team appointed by agreement with the fire marshal in territory without municipal organization shall provide a program which includes public education with respect to fire safety and certain components of fire prevention in the territory in accordance with the agreement." By expanding merely the fire marshal to include a services board or a prescribed person or organization to provide services in territories without municipal organization, does the parliamentary assistant contemplate regulatory powers that would designate prescribed persons or organizations?

1630

**Mr Bob Wood:** All I can do is give the same answer as I did the last question. It's the same.

**Mr Kormos:** Can we try it for this question so the Hansard can demonstrate that?

**Mr Bob Wood:** No.

**Mr Kormos:** That's a big effort. I understand that. This is getting tougher and tougher.

**Mr Klees:** You just don't get it.

**Mr Kormos:** Yes, I am really having difficulty getting it, that the parliamentary assistant could display the incompetence that he has displayed so far today, with no familiarity whatsoever with the bill or the amendments that the government is proposing to it, and display such arrogance in his reluctance or failure to respond.

I should indicate, Chair, that I was — and I acknowledge when I'm incorrect — incorrect. I was under the misapprehension that this bill was time-allocated, such that at the completion of two days it was deemed to have had all clauses moved and passed. I've been advised by a representative of our House leader that the time allocation failed to be specific in the instance of this bill that there were merely two days allocated to clause-by-clause consideration, and that those clauses that weren't passed in those two days and those amendments that weren't moved within those two days will, upon the expiration of those two days, not be deemed to have been passed but, by gosh, be deemed to be outstanding.

I am grateful to my House leader's office for having advised me of that because I feel a little bit like a dentist, one who's been unable to administer Novocain and has been compelled to pull teeth without the assistance of analgesic.

Here we are. The government appears to be wanting to play silly bugger with everybody involved in this. The parliamentary assistant has been sitting here being, quite frankly, silly in his responses to legitimate questions put to him. It's entirely appropriate for any of us to question the government's intent in amendments and the ill that those amendments cure or indeed the expanded definition or what have you. I think it's important. Here we are; we're being called upon to consider a whole whack of

amendments from the government. I treat this bill seriously.

As I say, I already started to see a little bit of the writing on the wall when I saw that the government neglected to bring an amendment to amend 41(1) and when it rejected the Liberal amendment which would complement an amendment to 41(1), which would give effect to what government members, including Mr Klees, have stated wasn't their intention. It wasn't their intention to pass a bill that would accommodate or lay down the carpet, open the door, provide carte blanche to private firefighting services.

I see a little bit of the writing on the wall, and here we are with this amendment to subsection 4(2), very similar, mind you, to the amendment in terms of how it adds to the role of the fire marshal to include a services board established to provide services in territory without municipal organization or a prescribed person or organization. That, quite frankly, is very troublesome because it — take a look, if you will. Why I raise this — you want to take a look at the bill in part IX.

We could have gone directly to that. For the life of me, I don't know why the government didn't acquiesce to the generosity of Mr Ramsay when he was prepared to move beyond part I into part II. We could have gone directly to part IX, but the government — and we were adopting a generous position at the time, an extremely generous one.

Look at the similarity of language that the government is incorporating now into other parts and other sections of the bill, because 41(1), the section of the bill for which there is no amendment presented by the government, speaks of employer as — I'll read directly. "Employer means a municipality," — fair enough — "person or organization that employs firefighters."

Good counsel has interpreted that as being the carte blanche, the entry point for privatized firefighting services. As I say, that's in conjunction with the definition of "fire department" that the government stuck with, as compared to accepting the amendment of the Liberals, which was identical to the amendment proposed by the New Democratic Party caucus but of course was withdrawn because it was identical to the Liberal amendment that failed.

Now we've got the parliamentary assistant importing the language that would deal with parts of the province that don't have municipal organization being able to have firefighting services, among other things, pursuant to section 3, supervised by the fire marshal. Again I could be wrong and I would invite the parliamentary assistant to explain in what areas I've been incorrect, but he's talking about a prescribed person or organization to provide services.

That smacks to me of an expansion of the intent to privatize by this government, because it means not only privatization in municipalities where municipalities will be permitted by virtue of the new definition of "employer" in subsection 41(1) to contract with private firefighting services, but it appears that even those parts of the province with areas that do not enjoy municipal organization with a fire marshal would have had sole authority, under section 3, to provide. I presume that's a

little analogous — again I'd like the parliamentary assistant to comment on this — to what the OPP have historically done where unorganized parts of the province have enjoyed policing by the Ontario Provincial Police.

Of course, now those municipalities are going to have to pay for it, but the relationship still exists with municipalities that are unable to provide their own police services because of their size or because of their huge geographic area and not having the tax base, and especially now after the downloading by this government on to municipalities. You were with us in Windsor when we heard about the huge costs of the downloading and the impact on small-town and big-city Ontario across the board, increased taxes for virtually every property owner in the province. But it appears now that the government is importing privatization even into those spheres where the fire marshal would have been able to supervise firefighting services for unorganized municipalities.

I find that very troublesome, especially because it contradicts what government members of the committee have been saying as they listened over and over again to the public's fear about private firefighting services, to the examples imported from the United States, Rural/Metro in particular, in Arizona, and we heard from the fire chief from Arizona —

**Interjection:** Brunacini.

**Mr Kormos:** You're darned right. He was a compelling witness before the committee and he as well told you that private firefighting is not for the birds, it's for great profits, but certainly needs to be rejected.

Again, I wish the government would simply come clean here. They've been trying to play cute over the course of the last two weeks about private firefighting services. They've tried to indicate that it was never their intention to displace professional firefighters in this province with private firefighting services like Rural/Metro, scoundrels in their own right, scofflaws. They're scam artists; they're ripoffs. Take a look at some of the stuff we've witnessed from them from newspaper reports out of Arizona.

I don't want them here in the province of Ontario. This government clearly does and this government wants them in as many places as possible, including those places which, in the original drafting of the bill, it had left to the sole jurisdiction of the fire marshal.

The fact that the parliamentary assistant would sit there and be — gosh, I'm not hard-pressed to think of language to describe him; I'm hard-pressed to think of appropriate language to describe him. Supercilious, I guess, among other things.

We know what's going on; the parliamentary assistant simply doesn't know. He has no idea. He's got briefing notes in front of him and where the briefing note ends, his familiarity with the content of the bill ends. It's as simple as that. We gave him more credit than was due because I suggested that he was probably going to spend the weekend brushing up on the bill and on the amendments and try to put on a good appearance here at the committee hearings come Monday.

1640

Clearly all he's got are the briefing notes. He hasn't discussed these amendments with anybody other than his

dog, and the dog wasn't answering. There's no two ways about it. I think the parliamentary assistant owes this committee and owes people who participated in the committee something of an explanation of what is contemplated by this government when it imports "prescribed person or organization."

Again I've noticed, and it's been pointed out to me by some of our staff and other people who have now had a chance to look at the government amendments, that some of them are very sloppy. The draftsmanship is less than desirable. I suggested that "prescribed person" might require regulatory power. I assume that when it says "prescribed person," you're talking about somebody or something. I'm not a corporate lawyer or anything of that sort, but I presume a person could be a corporation; that's where the private organization comes in.

You'll note when you take a look at subsection 41(1), and again it's important to do that because we're talking about similar language and there is no amendment to this, "'employer' means a municipality, person or organization that employs firefighters." It doesn't say "prescribed person." That's where the PA has got to do some explaining here. The organization isn't prescribed there nor is it prescribed — although I don't know whether the government intends it to mean prescribed person or prescribed organization. In the employer definition, they've got "municipality, person or organization." They don't have "prescribed person."

Again, I will put it to the parliamentary assistant: Why in this context of the amendment to section 4, and in the earlier amendment to section 3, are they talking about prescribed persons or the prospect of prescribed persons or organizations, yet they don't require prescribed persons to be employers in the context of subsection 41(1)?

I suppose what I'm saying to you is that I feel compelled to vote against this in the absence of any explanation and also the fact that this is so late coming. If this were a mere technical cleanup — and I understand that; I have no quarrel with that prospect — surely the government could have put this forward a whole long time ago, so to speak. I don't think so. This isn't just cleaning up language or cleaning up punctuation or terminology. There's something going on here, and we're not being let in on the secret, nor is the public, except I don't think it's all that secret. I think it's relatively transparent in the total scheme of things.

Needless to say, I suppose there are going to be more questions down the road, I don't know. I should take a look down on here. I'm not sure whether there are any more of these government motions that amend any of these subsections in the same way. I'm going through the government motions; I'm up to clause 21(1)(d), 21(1)(e). No, I don't think so.

If only Gary Carr were here, because I'm sure he knew this stuff.

**Interjection:** He got fired.

**Mr Kormos:** But he got fired because I'm sure he was becoming increasingly sympathetic to the complaints and concerns about the bill. God bless you, Gary, wherever you are. We miss you.

We're voting against this subsection. However, I'd be more than pleased to hear debate, to hear comments from



government members or other members of the committee. I don't have a closed mind on the subject; I could be persuaded. I'd love to hear a response, to hear debate, and I'd love to be able to respond in kind to any explanation about the need for this particular subsection.

**Mr Ramsay:** I just want to reiterate a point my colleague Mr Kormos brought up at the very beginning of his point in regard to this amendment where he stated it was his understanding, through his House leader, as it is my understanding through my House leader, that there is no time allocation for this bill in committee and that therefore it may require more than the two days that the subcommittee allotted. That was my understanding also.

**The Chair:** Thank you, Mr Ramsay. Is there any further discussion in regard to the proposed government amendment?

**Mr Len Wood (Cochrane North):** I just want to see if there is some clarification coming out, because when you look at the previous amendment and this amendment, when we're talking about unorganized territory and areas where there is no municipal organization, having been involved for five or six years before, the Minister of Natural Resources used to have all kinds of firefighters out there who were fighting fires in these particular areas.

With the massive layoffs and the closing of fire stations and everything that has been happening over the last couple of years — I'm looking for an explanation from the parliamentary assistant — what is the intention? Does it mean that the fire marshal or whatever is going to take over the responsibilities that the Minister of Natural Resources has had for the last 50 years and contract out the fire services? There's no way that a fire crew, whether they be volunteer or whether they be paid by a municipality that's expanding into unorganized territory — you're talking about thousands and thousands and thousands of square miles of unorganized territory out there. What is the intention of amendments of this kind or even including this in there? Who's going to pay for this?

Does it mean that some fire marshal is going to phone Texas and say, "We've got a fire circulating in the town of Hearst or the town of Longlac or whatever and it's all unorganized territory"? Which municipality is going to pay for this? MNR has abandoned these areas by closing down all the fire stations.

If the parliamentary assistant, Mr Wood, is not able to explain that, we should get an explanation from the parliamentary assistant for northern development and mines or the parliamentary assistant for natural resources. Who's going to look after the millions and millions of dollars that could be involved?

**Mr Klees:** Bill 84, Len. You've got the wrong page.

**The Chair:** Order, please. Mr Wood has the floor.

**Mr Len Wood:** I'm looking for answers.

**The Chair:** Is there any further discussion with regard to the proposed amendment? If not —

**Mr Kormos:** On a point of order, Chair: I'm requesting a 20-minute recess upon your calling a vote, as per the standing orders and my right.

**The Chair:** I had not yet put the question, so if you'd just wait. I'll pause, Mr Kormos, you can be assured.

I will put the question. Shall the government amendment, being item 7 in your correlated amendments, the amendment being to subsection 4(2), carry?

**Mr Kormos:** On a point of order, Mr Chair: I'm requesting a 20-minute adjournment, as per the rules.

**The Chair:** We are adjourned to 10 after 5, by my watch.

**Mr Kormos:** Thank you, Chair.

*The committee recessed from 1649 to 1708.*

**The Chair:** The time by my watch is now 5:10 and the question has been put. Shall the government amendment to subsection 4(2) carry?

**Mr Kormos:** A recorded vote, please.

**The Chair:** A recorded vote is requested.

### Ayes

Doyle, Klees, Leadston, Parker, Rollins, Bob Wood.

### Nays

Crozier, Kormos, Ramsay, Len Wood.

**The Chair:** The amendment is carried.

The next motion deals with a new section and the clerk has advised that I should put the question: Shall section 4, as amended, carry?

**Mr Kormos:** I'm sorry. You're now moving the section?

**The Chair:** Yes.

**Mr Kormos:** We need an opportunity to debate this section by section.

**The Chair:** Yes. I was trying to explain about 4.1. We're moving section 4, as amended, and the question is: Shall it carry? I've then asked — I haven't put the question. Now I am asking if there are any questions or comments in regard to the proposed section. Mr Kormos?

**Mr Kormos:** If I may, Chair, first, I appreciate that you're now moving section 4 of the bill, as amended. Had similar motions been made for sections 1, 2 and 3?

**The Chair:** No. That's correct, Mr Kormos. Thank you for pointing that out. The clerk did point that out. I do not have my roadmap and I was following the bill. I neglected to put those questions, and I will be coming back to them. Thank you, Mr Kormos.

**Mr Kormos:** But in accordance with Mr Wood's desire that this be dealt with chronologically and that we not skip about, shouldn't we stick to that formula for the sake of consistency and to give some credit to Mr Wood's argument?

**The Chair:** Yes, I intend to go back to section 1 as soon as we have completed this. We are now debating section 4. Thank you, Mr Kormos.

**Mr Kormos:** Thank you, Chair. Here we are. I've got to tell you that without having heard the views of the committee on sections 1, 2 and 3, it's difficult to debate section 4, but thrust into it as I am, I'll do it. Of course the Chair will note that there is a section 4.1 by way of amendment. Hold on just a minute, Chair, because I don't have one of those compilations with the numbered pages so I'm at a little bit of a disadvantage, but there are two. No, wait a minute. There's an NDP motion moving a section 4.1 and then — here it is, I've got the numbered pages. Thank you very much, Chair. Then there's 4.1

that's an NDP motion, page 9, and on page 8 is a 4.1 that's a Liberal motion. So I trust we'll be dealing with those. Those, of course, are 4.1 and not section 4.

My concern now is what the government has done by virtue of its motion in subsection 4(2). Of course, section 4 — and we have to look at it in context. It would be improper to debate it without referring to the section. We don't want to digress. But for 4(1), and again the columnar reference, "Community fire safety officer or team":

"4(1) A community fire safety officer or a community fire safety team appointed in a municipality or in a group of municipalities shall provide the program established under clause 2(1)(a) in the municipality or in the group of municipalities, as the case may be."

For us to consider subsection 4(1) means we have to consider 2(1)(a) because this is a requirement that there be provision of the program prescribed under clause 2(1)(a), and so I'm reserving my right to debate should the Chair not rule in my favour. On a point of order, I'm saying your motion is out of order, because how can we consider a section that's dependent upon the existence of a prior section without that prior section having to pass?

So I'd ask you if the first thing you could do is rule on my point of order that it's out of order to move this section without having considered and indeed adopted section 2, and in particular clause 2(1)(a), which is specifically referred to in subsection 4(1). I raise that on a point of order as a preliminary matter, Chair, please.

**The Chair:** As usual, Mr Kormos, I have listened very closely to the very thorough and reasoned discussion and argument you have given me in that, and I think you're absolutely correct. I will withdraw the question and we will proceed to number 1, as amended.

**Mr Kormos:** Thank you, Chair.

**The Chair:** I apologize to the committee. As I say, because I do not have the usual roadmap before me, I neglected to call the questions in the proper order. Mr Kormos has quite properly pointed that out, and I have ruled on it. I therefore proceed to section 1, as amended, and ask for comments and questions and discussion with regard to section 1 of the act, as amended.

**Mr Kormos:** Thank you, Chair, and I am appreciative of the collection. I have 160 pages. I hope that's — the clerk is nodding. I appreciate that.

Again, the definition of "fire department" of course was changed as a result of the government amendment. That was amendment number 3. The government also amended the definition of "firefighter" as a result of amendment number 4 in the collection of amendments. Those are in subsection (1), and it went on to amend subsection (2). Then in a strange — see, here, it's nuts, because subsection 3(2) — oh, boy, 1(3).

If you take a look at page 6, it's unclear because it says subsection 3(1), but I guess that refers to section 3. That's right, so we're just up to page 5 in terms of the amendments that have been made to section 1.

No quarrel with the fact that there's a need for a definitions section. I think that's common. Some concern about the expansion of the definition of "fire department," and in particular because part I, definitions, as amended, reinforces this government's agenda for

privatization of firefighting services. I appreciate that this is part of the —

*Interjection.*

**Mr Kormos:** It does, there's just no two ways about it. When it refers to section 3, it's referring to the agreements that can be made with the fire marshal, because the definition of "fire department" has been amended to change, by an agreement made under section 3, the definition of "fire department" and the definition of "firefighter." Let's talk to the extent to which section 3 impacts on this, because certainly the definition of "fire department" has been amended to refer to "an agreement made under section 3," as compared to the original provision, "by agreement with the fire marshal to provide fire protection services."

That's what's interesting, because what's happened is that originally, when you had a fire marshal agreement, it was to provide fire protection services. This gets to what we were talking about in committee about the mandatory need to provide education and prevention but the fact that suppression was discretionary.

Look what's happening here, Chair. We raised concern about the fact that, it's interesting, government isn't requiring that fire suppression be mandatory; it's making that, in effect, discretionary. The parliamentary assistant can correct me if I'm wrong and I'm sure he would be eager to. Section 3 is optional, it's discretionary:

"(2) An agreement referred to in subsection (1) may provide for,

"(a) the appointment of a community fire safety officer or a community fire safety team; or

"(b) the establishment of a fire department."

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Do you get what I'm saying, Chair? It's discretionary. It can be one or the other, and obviously both if contemplated, because originally it said, "An agreement with the fire marshal to provide fire protection services," which is that omnibus definition which includes fire suppression, fire prevention, fire safety education etc. By changing that to read simply, "by an agreement made under section 3" — section 3 provides for agreements with the fire marshal to be discretionary as to the types of services to be provided.

It says, "An agreement referred to" — that is the agreement with the fire marshal — "may provide for,

"(a) the appointment of a community fire safety officer or a community fire safety team; or

"(b) the establishment of a fire department."

What the government has done by amending those references to an agreement with the fire marshal to read "an agreement under section 3" — the original agreement with the fire marshal meant there had to be the provision of fire protection services; that's what the original subsection meant when it was first drafted: fire department. What the government has done is really undermined the safety of — wow. I'm sorry, because I've only just had a chance to really put these pieces together in the separate parts of the bill. Our original impression from the bill was that in those unorganized municipalities where there was an agreement with the fire marshal, that was to provide fire protection services, because that's what the definition was. That's no longer the case.



Fire protection services are all those services defined in the bill, which include fire suppression. What the government has done is made this consistent with what we now discover is its real intent with section 2. That is that it is discretionary for municipalities to provide fire suppression services. What they've done is they've moved that on into section 3, fire-marshal-supervised services.

This is insidious and more than a little bit devious. I recall just a few minutes ago having given the parliamentary assistant plenty of slack, lots of opportunity to explain this. I was suspicious at the time, I guess just because it was a government motion. But now I'm beyond suspicious; I'm overwhelmed. What this government has done is it has undermined the safety of those large parts, vast parts of Ontario, quite frankly many of them particularly vulnerable to fire: one, because you're talking about forested areas; two, you're talking about many areas that are remote, with housing and building structures and heating systems, to wit coal or wood, that are particularly dangerous, where you have a particularly high propensity or high levels of exposure to fire risk.

You can't pull this one off this time. We got you. That looked like an innocuous amendment to change the wording "by agreement with the fire marshal to provide fire protection services," to simply "an agreement made under section 3." It looked so innocuous. Had we been asleep at the switch the way Mr Wood was on Wednesday in Windsor, we wouldn't have caught this, but we have caught it and we're not going to support that type of undermining by any stretch of the imagination.

Somebody has been less than candid here; somebody has been less than forthright. I recall certain government members on the committee, some of whom are still blessed with membership on this committee, some of whom haven't been fired, insisting that this bill is going to strengthen fire prevention and public safety here in the province of Ontario. Horse feathers. Nothing of the kind. Now we start to understand.

We heard some of the civilian comments, and God bless: fire safety, fire prevention, fire education. We saw some of the data and nobody on this side quarrels with the need. We were impressed as all get out with the city of Windsor, that actually has a fire alarm program where they distributed them free — not free; the taxpayer paid for it, but at the end of the day it's cost-effective. That was smart fire prevention in our books. But we heard from folks who came before the committee who had been victims who said: "All the fire prevention and fire education in the world doesn't prevent my neighbour" — we talked to a couple of people who lived in flats, not a new building where you've got fire walls and so on, but an old converted house; they're all over the place and there's nothing per se wrong with them — "from falling asleep with a pot of French-fry grease on the stove. I can

do all the right things in the world, and depending on where the fire alarm or smoke alarm is located" — wow.

The government here is trying to pull the wool over somebody's eyes. I'm a little shocked and disappointed. I'm looking forward to hearing some of the government members refute or attempt to refute my suggestion that they have weakened the role of the fire-marshal-supervised areas. I stand by it. Again, I could well be wrong, and I'm prepared to listen as long as necessary to debate from government members who would attempt to dissuade me, that I'm wrong: I'd be eager to be proven wrong, because it's disappointing to think that the government would be conducting itself in this manner when it's tried to tout this pathetic little thing, this Bill 84, as being something that's going to enhance fire safety, something that's going to protect the public and something that's going to preserve public professional firefighting services of the quality that, yes, we've enjoyed and been blessed with here in Ontario for so long.

Therefore, in view of the evil that the government has done to section 1, in view of the malicious amendments that have been passed, section 1 now becomes entirely unacceptable, and subject of course to consultation with the New Democratic Party caucus here, I anticipate that we'll be voting against this.

**The Chair:** Is there any further discussion or questions in regard to section 1, as amended? If not, I'll put the question.

**Mr Kormos:** A 20-minute recess please, Chair, as per my right pursuant to the rules.

**The Chair:** We will reconvene at 5:50 by my watch. *The committee recessed from 1727 to 1747.*

**The Chair:** I'd ask the committee to reconvene. I have put the question. All those in favour of the government motion? All those against? Section 1, as amended, carries.

The next matter on the agenda is section 2. We're dealing with section 2, which was not amended. Is there any comment or discussion with regard to section 2?

**Mr Kormos:** Again, we have to very much consider section 2 in the context of it as having been amended by —

**The Chair:** Mr Kormos, do you intend to ask for another adjournment? If you do, we have a vote at 6, so you could simplify life for us by stating that in advance.

**Mr Kormos:** I can move adjournment.

**The Chair:** No, I wasn't asking that. Once I put the question, do you intend to ask for a 20-minute adjournment, which is your right?

**Mr Kormos:** You bet your boots, sir.

**The Chair:** Okay. On that basis, I don't see any sense in proceeding on this evening since we will be completed within seven minutes and we do have a vote in the House. I would therefore adjourn these hearings until tomorrow at 3:30.

*The committee adjourned at 1748.*

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**Tuesday 22 April 1997**

## Standing committee on administration of justice

## Fire Protection and Prevention Act, 1996

Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Première session, 36<sup>e</sup> législature

**Mardi 22 avril 1997**

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 22 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 22 avril 1997

*The committee met at 1532 in room 228.*FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / *Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.*

**The Chair (Mr Gerry Martiniuk):** We will continue with clause-by-clause consideration of Bill 84. When we left this matter yesterday, we were into discussion of section 2 of the act and Mr Kormos had the floor.

**Mr Peter Kormos (Welland-Thorold):** Thank you, Chair. I appreciate your courtesy yesterday in accommodating the committee by permitting them to vote on Bill 103.

Section 2, as amended, had been moved and I began, I believe, by expressing the concern that I had about the distinction between clause 2(1)(a) and clause 2(1)(b).

This brought comment throughout the course of the two weeks, one of four days and the other of three days, of public hearings. Clause 2(1)(a) makes mandatory the provision of public education with respect to fire safety and fire prevention. Quite frankly, every participant who spoke to the committee during the course of the hearings had nothing but praise for this component of the bill, and there is no quarrel, certainly from this quarter, with that requirement. It was demonstrated oh-so-clearly that fire prevention and fire safety and education were significant elements in saving lives and in preventing loss by fire.

I made reference to the Windsor fire department's process whereby they had a very strong, a remarkable smoke alarm public program wherein smoke alarms were distributed literally door to door. Any householder or tenant who wanted one, it appears, could simply call the fire department and a fire officer would deliver it. I was left very much with the impression that they would actually install it, and I join all those who applaud the introduction of this mandatory requirement.

However, Chair, you know, as does the committee, at least those members who were able to be present during the travelling and the two days in Toronto that there was much concern expressed about the fact that 2(1)(b) was separate and distinguished from 2(1)(a). It's remarkable because, of course, the government may well say — the first line of subsection 2(1) is "Every municipality shall."

That appears to be mandatory, and I suspect that some of the government members, when they expressed views and tried to rebut the position of participants and of opposition members, pointed to that.

But in terms of "shall", the mandatory requirement as to fire protection services, that is, "such other," which includes fire suppression because fire protection services of course are defined in subsection 1(1), the definitions, is only "as it determines may be necessary in accordance with its needs and circumstances."

Again, here we've got interesting language, I suppose, utilizing the qualifiers of "needs and circumstances," and I appreciate the issue of needs. One wouldn't expect a community to participate in fire protection services that were, for instance, well beyond its needs, but circumstances is what causes concern, especially when you go over to where the government has tried to rewrite the rules of arbitration and talks very clearly. Of course, there have been amendments tabled to address that, where the government tries to rewrite the rules of arbitration and would permit arbitrators — not permit them, require them — to take into consideration things like the economic circumstances of a community.

I'm referring specifically to paragraph 54(7)1 that an arbitrator "shall take into consideration...1. The employer's ability to pay in light of its fiscal situation." It says the "employer's," not the municipality's, "ability to pay" because this is part and parcel of the open door to privatization.

On to paragraph 3: "The economic situation in Ontario and in the municipality." That's very weird. I make reference to that because again a municipality shall "provide such other fire protection services as it determines may be necessary in accordance with its...circumstances."

We then have reference in paragraph 54(7)1 to:

"1. The employer's ability to pay in light of its fiscal situation.

"3. The economic situation in Ontario and in the municipality.

"4. A comparison, as between the firefighters and other comparable employees," not just in the public sectors but "in the public and private sectors."

I don't purport to be an expert or anywhere akin to an expert on arbitration law, but I understand that there has been historically developed in the law of arbitration in determining awards or settlements regarding salaries and pay a comparison as often as not to, let's say, police officers, policing. This would appear to expand that to "comparable employees in the public and private sectors."

What would happen there would be that if a community was adjacent to a community that had private fire-

fighting services like those from Rural/Metro, for instance, and Rural/Metro being the type of company it is, profit-driven, was paying firefighters \$10 or \$11 an hour, it seems to me that a comparison between the firefighters and other comparable employees in the private sector, you would have there an arbitrator being forced to consider — “shall” because it’s mandatory — what Rural/Metro is paying its firefighters in determining an award to what might at the moment remain municipally employed firefighters.

1540

There has been a lot of concern expressed about 2(1)(b) and the fact that it’s omitted from the mandatory requirements. It would have been so easy for the drafters of the legislation, for the government, to have simply said “Every municipality shall provide fire protection services,” which includes public education, includes fire prevention programs and fire suppression along with all the other things that are listed there.

The government members, in response to those concerns, kept saying: “Read the section. It says ‘shall.’” Well, it could have said “shall” in an oh-so-much-clearer way and could have said it so easily. It could have said, “Every municipality shall establish fire protection services in accordance with its needs.” The other crazy thing is that when it talks about other fire protection services in clause (b) it says, “as it determines may be necessary in accordance with its needs and circumstances,” and I think “circumstances” is the hook here.

**Mr David Ramsay (Timiskaming):** The operative word.

**Mr Kormos:** The operative word, as has been pointed out. But it doesn’t say that with respect to public education and fire prevention. I don’t know what gives here. The government is trying to hide under this feel-good message of it requiring fire prevention and fire education services.

You heard the argument that prevailed from government members — not all of them. People like Ron Johnson, who is the former Vice-Chair, and people like Gary Carr, the former parliamentary assistant, were far more sensitive and seemed to be far more aware of the real issues. You heard the constant argument because on the one hand the government said, “There isn’t a lowering of standards here,” but then there seemed to be an acknowledgement of the fact that there was a lowering of standards.

I put to you that subsection 2(1), clauses (a) and (b), is specifically a part and parcel of that lowering of standards. The government said, “If there is a lowering of standards, no municipality would ever descend to that lower level of standard.” It talked about the responsibility of councils and administrative officers and their wanting to fulfil their responsibilities.

What we did learn, though, is that more than a few municipalities, and we heard some very direct evidence about that, did not meet the standards that are currently established by the fire marshal in terms of, let’s say, staffing of a pumper. We learned through discussion about the Rhode Island study in terms of worker safety on the part of firefighters when you de-staff the pumper from four down to three staff. We also learned from the

Ontario fire marshal’s own study, along with others, that when you reduce staffing on a pumper from four down to three staff, you incapacitate that crew from doing internal fire suppression. I take that to mean, I think it’s obvious, putting out fires inside of a building.

In other words, these poor guys, when you’re understaffed to that extent, can only stand outside and listen to the screams of occupants of burning buildings and try to throw water on them, because it talked about when you reduce staffing from four down to three, you can’t do internal fire suppression, and the other most dramatic one is you can’t do rescues. You can’t enter a building to effect rescues.

We saw and heard from the young man in Hamilton who was there with his sister and his mother and who talked about literally being rescued and having, as I recall it, displayed that state where there were no vital signs there, but firefighters with great courage entered the building, and that, we learned, was only possible through minimum staffing.

That’s why I get down to the failure of the bill to address any real standard, which is necessary, because we learned that municipalities have indeed reduced staffing on pumpers, not just down to three, but we heard of circumstances where they’re doing it down to two staff people. We know, there’s simply no quarrel, no quarrel whatsoever, there can’t be, with the fact that part-time firefighters, whether they’re volunteers — and nobody on this side has anything but the highest regard for volunteer firefighters, either in those integrated or blended firefighting services where volunteers complement the professional firefighting services or in those communities, and heck, there’s whole pile of them, one right down in Niagara region, Niagara-on-the-Lake, which is an entire 100% volunteer firefighting service — no quarrel with the commitment and the important role of volunteer firefighters. But we learned that part-time firefighters, whether they be volunteers or the type of part-timers who appear very much to be contemplated by the government, do not have the same response time.

Let’s just deal with response time for a moment because there were other concerns raised. There was some very candid evidence in at least a couple of communities, once in Hamilton and at least one other, where nothing but praise for volunteers, but an acknowledgement — and I’ll speak to this more in a few seconds — that the part-time firefighter, be it volunteer or be it the paid firefighter who is on the payroll but a part-timer, simply doesn’t have the same response time. There’s no issue with that.

The other concern that was raised, and this is what I said I was going to speak to in a few seconds, was the whole business of qualifications. Then there’s a third factor, of course, which is the element of teamwork, and I’ll speak to that after I speak to the business of qualifications. We heard uncontested, unrefuted submissions that indicate — and I think it was young Mr Clark, the former mayor of Belleville, who one could not construe as anything other than impartial. Here was a young person who had almost a decade of experience as a mayor of a sizeable Ontario community, no longer doing that for his livelihood, who came before the committee it appears



with nothing other than eagerness to participate: no axe to grind, no bone to pick whatsoever.

He, among others, talked about the fact you'd have to have a part-time firefighter with some 10 years', minimum, participation before he or she could even begin to come close to having the necessary time on the job and in training that a first-class professional firefighter does. We learned that it takes some four years for a first-class professional firefighter, as a full-time professional firefighter, to acquire that first-class status. It isn't difficult to do the math.

Then there's the third factor, which of course was that strange and sometimes undefinable element of teamwork: simple plain teamwork. The strong suggestion across the board was that teamwork is essential, it's crucial, it's part and parcel of the whole role of firefighters. When we looked at the Durham study, where they had used part-time firefighters — you remember that, I'm sure, because the research staff accommodated us and got hold of that study after it had been referred to by several presenters and in particular one presenter in Kingston. What had happened in Durham back it appears in the 1970s, and they experimented with it for a good decade or so, was that they blended, if that's not an inappropriate word, the police services with the firefighting services. They used police officers effectively as part-time firefighters.

What they learned, which caused them I believe around 1985 to abandon this utilization of police officers as part-time firefighters, was that response time simply wasn't there. They learned that the role of policing was distinguishable from the role of firefighting and the types of relationships that those officers have with each other.

It was confirmed, and this has been consistent across the board in all the participation in this series of hearings, that there has to be an ability to communicate without the spoken word, that there isn't time. We learned — and I'm grateful to everybody from the fire marshal's office and firefighters in firefighting services across the board — a great deal about the fact that mere seconds are crucial, literally seconds — that you don't have time.

1550

We'll talk later about the demand for more management staff. You don't have time to get on the phone and talk to the chief or the deputy chief or however many managers this government may want to extract out of a firefighting force. You don't even have time to engage, it appears, in verbal communication, one firefighter with the other. You work, supposedly, organically. You work in that highly developed team where people are oh-so-sensitive to each other, and I suppose there becomes a communication that's difficult to define.

You don't have time — I enjoyed some of the sports analogies that were used from time to time by various people on the committee — to sit down and plan out a play. You don't even have a scrum. You just go in there and do it. Nobody's giving you signals or using code to identify the type of play that's going to be used. You just do it.

It's hard to understand, and I suppose in a minute I'm going to ask the parliamentary assistant — because I'm dealing with subsection 2(1), not with the other subsections of section 2 — why the government would not have

responded to the — maybe I won't ask, because I can anticipate the type of answer I'm going to get, which is "Because." It's like talking to a four-year-old. Well no, quite frankly, the conversations I've had with four-year-olds have been far more productive than the conversations I had yesterday with the parliamentary assistant. Four-year-olds are less inclined, the ones I know at least, to simply say "Because." They're more inclined to engage in some sort of analysis and responsible response to questions.

**Mr Bruce Crozier (Essex South):** That's how my parents used to answer: "Because."

**Mr Kormos:** Okay, "Because." Yeah, and that's how the PA is doing it: "Why?" "Because." "Why?" "Because." That simply doesn't cut it. What we're dealing with here is far too serious.

I'm going to tell you right off the bat, the way subsection 2(1) is structured, the way it clearly exempts fire suppression among other things from a mandatory service, is highly objectionable. It contradicts everything that the government has said about the intent of this bill in terms of safety and it again, quite frankly, when you look at subsection 54(7) — the radical, dramatic and very oppressive changes to traditional rules of arbitration — you start to realize that this isn't as happenstance as one would expect, that there's something going on here in the course of this bill.

The government members have been denying it, denying it, denying it, but they've been denying it with such a vehemence that it supports our suspicion. It has moved beyond suspicion, because I think some of the pieces of the puzzle are starting to fall into place. Subsection 2(1) once again, right off the bat, eliminates and denies all of the claims made by the government.

That's confirmed further, because take a look at what subsection 2(2) does. Look at what subsection 2(2) says about clause (b) of subsection 2(1), because it makes reference, of course, it expands on subsection 2(1) and it says what a municipality shall do if it's going to comply with subsection 2(1). Fair enough, but aha: "a municipality shall, (a) appoint a community fire safety officer or a community fire safety team." Fair enough. That's clearly to comply with clause (a) of subsection 2(1). But then it says, "or (b) establish a fire department," and a fire department of course would be all-inclusive because a fire department as defined means a group of firefighters to provide fire protection services, and then you have the full definition of fire protection services.

Look how subsection 2(2) complements and reinforces what my position is — or rather our position is — with respect to singling out fire prevention and fire safety and distinguishing it from overall fire protection services, because it says: "In discharging its responsibilities under subsection (1)" — all of subsection 2(1), clause (a) or (b) — "a municipality shall" have a choice of either merely having a fire safety officer or a fire safety team. It fulfils its obligations under subsection 2(1) by merely having a fire safety officer or a community fire safety team. That's what subsection 2(2) says: It fulfils its obligations under subsection 2(1).

If that doesn't stick out like a sore thumb in support of the obvious shortfall of subsection 2(1), nothing does,

because it can do that or it can establish a fire department, which has all of the duties of fire protection services. The government has moved well beyond even sucking and blowing here. I mean, the government is pretty transparent in the new low standard it is creating. In effect, they are telling communities that it isn't mandatory to provide fire protection services in addition to mere public education and fire prevention.

It's clear that this legislation does not require a community to establish a fire department. Look, it could be a volunteer fire department. I understand that. There are a whole lot of communities — Niagara-on-the-Lake, one of them down in Niagara region, where I come from has a 100% volunteer fire department. A community can be exempt from establishing a fire department.

If this government is serious about enhancing fire safety — and I understand that a fire department, once again, could be 100% volunteer — and if the government members truly understood the legislation and believed in what they were saying, they would have expected the requirement be to establish a fire department. It could be a volunteer fire department. It could, depending on the size of the community and the capacity of the community, be a professional fire department with a small component reinforced by the complement of volunteers. I understand that.

Nobody is suggesting here that every village, town, burg has to have a 25-person-staffed fire department. It may simply not be possible or practical for a whole lot of those communities, and clearly isn't, because we've got those communities and Niagara-on-the-Lake, quite frankly, is a sizeable one with a strong assessment base. Niagara-on-the-Lake is not a poor community, but Niagara-on-the-Lake has chosen a fire department and it has a fire department, but a volunteer fire service. So there's something really stinky here, quite frankly. It smells to high heaven. The odour rises from the pages of the bill and it's a little frightening.

Now let's take a look at subsection 2(3), Chair, please. That's on page 6 of the bill as printed. Once again, it talks about the role of the fire marshal in compliance with subsection (1), and what does it say? It says that "a municipality may seek the advice of the fire marshal," not "must" seek the advice of the fire marshal, not "must" pass any standards created by the fire marshal, but in complying with either clause 2(1)(a) or clause 2(1)(b) it "may seek the advice of the fire marshal."

Well, Lord love a duck, what's new there? This is nothing but a little bit of surplusage, as they say, and they may seek the advice of the fire marshal. Heck, the fire marshal is there now and, as I understand it, can be available to communities for that advice and indeed provides that guidance now. We saw the fire marshal of Ontario's report which talked about less than four staffers on a pumper being an inadequate amount of staffing for a pumper. People on a pumper, when there was less than four, were unable to provide, among other things, internal fire suppression and rescue.

1600

Subsection (3) confirms our worst fears about the inadequacy of this bill vis-à-vis real fire protection and real fire safety, or safety of the community, as compared to the open door, the red carpet rolled out. That red

carpet is rolled out all the way to the Peace Bridge where the gang of private, corporate, profit-making, profit-driven firefighting services is lined up, along with the same gangsters who are going to take over water and sewage systems, who have already started to take over ambulance services — six municipal ambulance services bought by Rural/Metro; a few more I'm told about recently purchased by Laidlaw. You surely have read about Laidlaw and are aware of their reputation in a variety of areas, and there's more waiting.

I was corrected by one of the Liberal caucus who pointed out that waiting at the Peace Bridge be darned. I think Mr Ramsay said they're not that patient. They're not simply there waiting. Mr Ramsay pointed out that they're here. They're in your back yard. Rural/Metro was up at the meeting, according to a press report, with the CAO of the city of Waterloo and made the pitch to the CAO because these guys know that municipalities are getting whacked big time by the downloading — big time.

Chair, did you know that in Niagara region alone the downloading is going to create new property taxes of over \$73 million? And you're talking about a region in this province that continues to be hard hit by unemployment with one of the highest unemployment levels in this province, that continues to be hard hit by Brian Mulroney's free trade agreement. Well, you've got to deindustrialize. It began the deindustrialization of Niagara region.

**Mr Ramsay:** They were Tories too, weren't they?

**Mr Kormos:** The Tory Brian Mulroney, the free trade agreement, and we fought the hard fight, as people did across Ontario, and we lost in 1988. I remember it well. Brian Mulroney kept his promise too. He signed a free trade agreement, he and Mr Reagan.

**Mr David Tilson (Dufferin-Peel):** On a point of order, Mr Chairman: I think it would be useful if Mr Kormos stuck to the bill. I'm sure he enjoys his usual rant but I'd be interested — he's made some comments which I've been listening to but he has for the last little while veered substantially from section 2.

**The Chair:** I think he has been straying a bit. Mr Kormos, if you could come back to section 2.

**Mr Kormos:** I appreciate the comments from the former parliamentary assistant to the Attorney General.

In any event, we're talking about a —

**The Chair:** May I correct you, Mr Kormos. No one has been removed or changed as of this moment. There has been no resolution that has gone through the House.

**Mr John L. Parker (York East):** Although, Mr Chair, someone was removed as Minister of Consumer and Commercial Relations.

**Mr Kormos:** Oh, you bet your boots I was.

**The Chair:** I just correct you in that regard. No one has changed position as of this moment.

**Mr Kormos:** I wouldn't pucker up as compared to my colleagues in the Tory caucus who keep a perpetual pucker on their faces. I'm sorry, my apologies. Mr Carr and Mr Murdoch and Mr Skarica must be sadly mistaken. Lord knows they've burned a lot of bridges without —

*Interjection.*

**Mr Kormos:** That's right. They're going to have to buy up a lot of old Toronto Stars and burn them. They



didn't know they weren't fired. I'll be damned. In any event, the soon-to-be parliamentary assistant to the Attorney General. But there's still a chance, if he puckers long enough with the right folks. Anyway, that is digressing and that's not on point. It certainly doesn't relate to section 2, least of all to subsection (3).

But I tell you, when I make references — I have to, I come from Niagara region, I'm very familiar with Niagara region and Niagara region is as representative as any part of the province when it comes to the various types of firefighting services. You've got strong professional firefighting services with a strong volunteer complement. It's — what do they call it? — micro-cosmic. Is that the — okay, Chair, close to that, I suppose. It's microcosmic of all of Ontario. If you were to slice Ontario down the middle you'd end up — Niagara region is as representative of that as any, so I'm going to talk about Niagara region to attempt to explain our position vis-à-vis this bill, and in particular now section 2. I'm not going to be much longer because I do want to get down to subsection (10) of the section.

I'm trying to say I understand that not all municipalities are going to have professional firefighting services. Some municipalities are going to have volunteers. But I'm also telling you, Chair, that subsection 2(3) reinforces the opting-out provision and contradicts the title of the bill. It is totally inadequate. This diminishes the standard.

These members, not all of whom were at all places during the committee, and that's not unusual because from time to time people substitute for each other — Mr Carr was there through all the committee but for the last day, and he would be in a good position to, having heard all of the submissions but for Windsor's — Mr Carr, who I guess hasn't been fired, beats me, I only know what I read in the funny papers — but Mr Carr would know what I'm speaking of, having heard all of the submissions and the concerns that were raised. Mr Johnson, beats me —

**Mr Ramsay:** Where is he?

**Mr Frank Klees (York-Mackenzie):** Playing golf.

**Mr Kormos:** Maybe he hasn't been fired as Vice-Chair either, in which case he's still getting paid and not here and he's slacking, but I'm not sure that that's the case, because he's not a slacker by any stretch of the imagination. Mr Johnson was among the hardest-working members of any committee that any government back-bencher could ever be.

**Mr Ramsay:** Now you've upset the Tories.

**The Chair:** I think it's personally refreshing to have Mr Kormos defending a member of our caucus.

**Mr Klees:** Point of order, Mr Chair: That's stretching the truth.

**Mr Kormos:** Mr Johnson was harder-working than any current member of this committee from the government benches, I'll tell you that much, and that I know with certainty.

**Mr Ramsay:** He who falsely compliments.

**Mr Kormos:** I'm disappointed in the fact that Mr Carr isn't here because he had an opportunity to hear all of the submissions and he, I'm sure, would have shared our views regarding subsection 2(3) of the bill. This is a real loosey-goosey kind of approach to drafting legislation.

The other thing that concerns me, and I appreciate the Chair moving these — and I'm not sure, I haven't checked with the clerk, but I don't think there's anything wrong with the Chair moving — the section's going to be moved anyway. But it would be oh-so-nice for the parliamentary assistant who is with us —

**Mr Ramsay:** What's he doing here?

**Mr Kormos:** That's right. If Mr Carr wasn't fired as parliamentary assistant, what the hell is Mr Wood doing here? It just struck me. It's an imposter. Mr Wood has no business being here, because Mr Tilson, who hasn't been fired as parliamentary assistant to the Attorney General — and it's not as if Mr Tilson didn't pucker up. That guy puckered every day of his career at Queen's Park and he still gets dumped.

In any event, subsection (3), I would appreciate my concerns being addressed. I would love — and I'd sit patiently while the parliamentary assistant took me through subsection (1), subsection (2) and subsection (3) of section 2, and said no — it would be easy for the parliamentary assistant to say, "Oh gosh, Mr Kormos, you're wrong." That's easy to say.

I've been wrong. From time to time, I've been wrong. I have definitely been wrong. I remember during leadership conventions some 15 years ago I was wrong and I've acknowledged it since, with great candour and with great openness. I'm not afraid to acknowledge that I'm wrong. I was wrong some 15, 20 years ago and I acknowledge that. I have no hesitation in stating that and putting it clearly on record. Mr Ramsay, quite frankly, in view of his history, might have some things to say about that as well.

1610

**Mr Ramsay:** I made a mistake 12 years ago too. That's right.

**Mr Kormos:** We've all made mistakes. Mine was 20, 25 years ago; Mr Ramsay's was 12 years ago. There you go. Neither Mr Ramsay nor I are reluctant in any way to acknowledge errors that we've made.

I'd love to have the parliamentary assistant address this. I'd love for him, with some rationale and some logic and some analysis and some patience —

**Mr Ramsay:** You're asking too much.

**Mr Kormos:** Look, however feckless my optimism becomes from time to time, I remain an optimist. Who knows what could have happened to Mr Wood overnight that would excite him into having acquired some even interest in the bill, never mind some understanding of it.

Subsection (4), in itself, I don't think there's any real quarrel with. I don't think anybody has lambasted the basically joint efforts, joint endeavours, on behalf of two or more municipalities. Then again, I suppose that recognizes — it's unfortunate, because you could have municipalities, because the only mandatory thing is fire prevention, fire safety, that want to give short shrift to it. Although it wanted to build in all sorts of quotas about managerial positions in terms of size, the government hasn't put any qualification on when two or more municipalities may jointly share a fire prevention officer or a community fire safety team or even a fire department.

One could question the wisdom of failing to do that, because you could have municipalities, beaten up by the

downloading, really circumventing their true obligation by having municipalities which are in a position to have full-time fire prevention officers or fire safety teams in their own right merely giving lip-service as such to the legislation. You know what the criticism was of the automatic aid agreements and the concern that this would promote yet more inadequacy in terms of minimum staffing.

I put to you, Chair, that there is a crisis right now in this province in terms of the inadequacy of staffing and the failure to abide by the fire marshal's own Ontario guidelines for minimum staffing; that there are, on a daily basis, accidents waiting to happen; that lives of victims have been lost as a result of the inadequate staffing and the failure of this being addressed; and that firefighters' lives and health and safety have been impacted for that very same reason.

Firefighters have fought in their own right in a number of ways, by direct appeal. I understand there have been some arbitration cases with varying degrees of success dealing with the issue of minimum staffing. I share their concern that the provision of subsection (6) is one which will allow, just as the emergency call provisions — we'll get to that later on in the bill and I know there are amendments from the opposition to try to rectify the error in the bill. So subsection (6), and again when you look at subsection (4) and recognize that it's a companion to subsection (6), these things compound each other.

I'll move on to subsection (7), and that's interesting because once again there's a lot of distinction here between mandatory and discretionary. It doesn't say that the fire marshal "shall" monitor and review firefighting services provided by a municipality; it simply says that the fire marshal may. I think it's very peculiar that this section would be in here at all without it being mandatory: "The fire marshal may...."

We heard over the course of the public hearings concern about the adequacy of the fire marshal's office, not its competence by any stretch, but the adequacy in terms of staffing and the resources that were made available to it to supervise fire departments, fire protection services across the province and/or the narrower public education and fire prevention provided for in (a).

Chair, has the new parliamentary assistant been fired? We've lost a parliamentary assistant.

**The Chair:** Yes, we seem to have, Mr Kormos.

**Mr Kormos:** I'll interrupt my comments there on a point of order. I understand that neither the standing orders nor the rules of committee require that a minister or parliamentary assistant be present during carriage of the bill, but it is also a long-held practice — this is on a point of order — and procedure, indeed a strong precedent, that either the minister or the parliamentary assistant have carriage of the bill through the committee and legislative process.

I interrupt my comments on section 2 by this point of order. I'm compelled to by the disappearance of the parliamentary assistant, who is the only conduit we have to the minister. Ineffective as he appeared to be, we were hoping that his participation over the course of Wednesday in Windsor last week and yesterday here in Toronto and today — and I should be fair, Chair. My House

leader's office was advised that Mr Wood, the parliamentary assistant, would have to leave at 4:30. I expected that the minister, Mr Runciman, would be taking his place.

On a point of order, Chair, I ask you to rule, and I welcome input from other members of the committee, that it is most improper and impossible for this committee to carry on with consideration of clause-by-clause in the absence of either the minister or the parliamentary assistant. I suppose there's a whole pile of reasons why that has been the procedure or practice. He or she is, as I say, the conduit to the minister. That's the reason for the requirement of the presence of the minister or the parliamentary assistant.

It also lends some semblance of legitimacy to the hearing process. The fact that the Solicitor General or parliamentary assistant would be here at least allows them to invite the inference that these public hearings and the clause-by-clause consideration have some relevance. It wasn't as if the parliamentary assistant became ill, because we were told he was going to be leaving at 4:30. I truly expected the Solicitor General to be here in his stead.

I put to the Chair that it would be appropriate for this Chair to respond to my point of order by adjourning this committee process effective — What do lawyers call it? Sine die? I think that's what they call it; I'm not sure. It's one of those Latinisms — until such time as the parliamentary assistant can return or the Solicitor General can be here.

I don't know if other people want to participate in that point of order but I raise that point of order, reserving my right to carry on with my comments regarding section 2.

**The Chair:** Is there any further discussion in regard to that point of order?

**Mr Len Wood (Cochrane North):** Having been involved in government over a five-year period and having watched proceedings of previous governments, I think it's quite true what Mr Kormos has pointed out, that we either have the minister himself or his designated parliamentary assistant, who is responsible for carrying the bill through committee or through the House, present as we're talking about very important amendments that are being brought forward on Bill 84.

There are a large number of amendments that have to go through. We know that Premier Mike Harris has changed the parliamentary assistants. At least people are telling me they saw that in the newspaper and on the radio and TV, that he had demoted three parliamentary assistants because they wouldn't follow the party line and replaced them with other ones. Now we find out that the new parliamentary assistant, Mr Wood, had to leave. I want to make sure it's Bob Wood from London and not myself who is being quoted in the Hansard.

**1620**

It's very unusual that we wouldn't have followed the tradition that has been followed over the last 15 or 20 years. I support Mr Kormos on his point of order that proceedings should not continue if we don't have a continuation of what has traditionally been either the minister or the parliamentary assistant taking responsibility for the bill and the amendments that are sitting here on the table.



**The Chair:** Is there any further discussion?

**Mr Ramsay:** I just wanted to know what maybe the reason was. Is it from a lack of interest from the ministry's point of view that we don't even have the parliamentary assistant here today? I know it is customary for ministers, with their schedules, to assign the carriage of a bill to a parliamentary assistant, and this was most ably done by Gary Carr for most of the time that we were under deliberations for Bill 84. As we all know, there was some sort of change, though the official status seems to be put in question today at this committee, but we understand there is a change and Mr Bob Wood has been here up until now. It does seem a bit strange now that we don't have any representative from the minister's office.

The members accept that ministers can't be here all the time and we certainly appreciate the attendance by the parliamentary assistant, but in this case we have a brand-new one who is just trying to get up to speed on the bill, was only able to attend one day of hearings, that being in Windsor last week, came to clause-by-clause yesterday, and has now left, and we don't seem to have a reason. I was wondering if another representative of the governing party or possibly the ministry might have a reason to give us why the parliamentary assistant is not here.

**Mr Klees:** Perhaps I could speak to that. In response to Mr Ramsay's suggestion that perhaps Mr Wood's departure is as a result of a lack of interest, I want to assure him and this committee that that certainly is not the reason. As we're all aware, changes have taken place over the last couple of days. Mr Wood unfortunately had a previously scheduled commitment which he could not break, and that was before he was asked to assume the role of parliamentary assistant here.

As a result, I was asked if I would take his place for the balance of this hearing today. We were hopeful that members of this committee, in the interest of moving the process forward, would accept that and would be willing to work with us in moving these amendments forward. That was our hope.

**Mr Kormos:** Chair, it appears now that Mr Klees — and no disrespect for Mr Klees, who has been participating in this committee I think consistently, every day, from day one through to today. Mr Klees has not been a peripatetic member of the committee; he's been here. I don't agree with his perspective on the interpretation of the bill, and so be it. I have no quarrel with Mr Klees's efforts.

However, please, Mr Klees is not the parliamentary assistant. For Mr Klees to purport to be in a position to respond to questions in the course of this committee is entirely improper and inappropriate. It is for the minister — in this case the Solicitor General — or the parliamentary assistant to sit at the head of the committee and be here. Again, the parliamentary assistant isn't necessarily a member of the committee; I understand that. He isn't necessarily, that is to say, a voting member, but that's again part of the practice of the presence of the Sol Gen or the minister and the parliamentary assistant, to be here to respond to questions that are raised if he or she so wishes.

Mr Klees is not the parliamentary assistant. As a mere member of the committee, he's not in a position to fulfil

that role of parliamentary assistant. I'm not prejudging in any way, shape or form Mr Wood's reason for being here. But, darn it, we raised the prospect last week on Wednesday in Windsor of deferring the clause-by-clause consideration of the bill to put Mr Wood in a position, as the new parliamentary assistant — contrary to what Mr Tilson would have us believe, we suggested a deferral for a mere two weeks of the clause-by-clause consideration. If this was, as Mr Klees explains it, a previous commitment that was impossible for Mr Wood to break, then it would have seemed appropriate for Mr Wood, who was, if I recall correctly, outspoken in opposition to that proposition, to have been perhaps somewhat more open to the prospect.

I'm sorry. Mr Wood makes around \$89,500 a year, close to \$90,000, give or take a few cents, as MPP and then parliamentary assistant. That's a hell of a lot more than any firefighter in this province makes, and it seems to me entirely inappropriate that Mr Wood would simply up and leave without so much as a howdy-do, literally walk out of the committee without explaining his departure, without putting a single word on the record, and then expect that Mr Klees can just jump in and become interim parliamentary assistant. That is really playing fast and loose with process.

That is the balance of my comments on the point of order, Chair.

**Mr Klees:** Mr Chair, if I might make further comment, with regard to Mr Kormos's concerns that all of his questions or questions that the committee may have perhaps couldn't be adequately addressed by me, I want to point out that we have staff here who are very capable of supporting me in this process. Any questions that I may not be able to reply to to members' satisfaction I'm sure we could ask staff to address. So I would ask that the committee accept that as the extenuating circumstances and that we get on with this.

I further would ask Mr Kormos to point out to us, if he would, which standing order he has raised this point of order on. Failing there being a standing order on which he's raised this, I would suggest it falls to the committee to determine whether it would be acceptable for us to proceed.

**Mr Kormos:** Mr Chair, I was going to end my comments, but then Mr Klees provokes me and causes me to comment further. I indicated at the onset, Mr Klees — I made it quite clear — that there is no standing order or rule that requires the parliamentary assistant or the minister to be present. I indicated that it was a matter of practice, precedent.

You'll note that the standing orders do — and I'm sure the clerk will assist the Chair in this regard — provide that where no standing order or rule exists, reference shall be made to practice or an effort to create, find, an analogous situation. That is in the standing orders, and that's a recognition of the development of precedent. So I made it quite clear. There is no standing order rule, but there is strong precedent and practice and there are rules of the House which apply to this committee which require that when a standing order or rule doesn't exist, you have to make reference to precedent or try to find an analogous or a comparable scenario. That's number one.

Number two — and again, no disrespect to you. As Frank Klees, you've been an active member of this committee. I have nothing but regard for that: a lot of disagreement, but that's not the point. I have nothing but regard for the fact that you've been with this committee from day one and have sat through the submissions. I respect you for that, but you are not the parliamentary assistant yet. Who knows? By tomorrow morning, if Mr Wood doesn't pucker up on command or doesn't pucker up long enough or doesn't pucker up in the right position, the story could change. You could be the parliamentary assistant.

*Interjection.*

**Mr Kormos:** Don't pucker up with me. I'm not the one who's got the power to make you a PA. Wait till you're sitting beside Mike in the House. But with all due respect, you're not the parliamentary assistant.

Again, staff are here as a complement to the active members of the committee and/or the parliamentary assistant. Your government may have adopted a process wherein the staff, the backroom boys — it's almost inevitably boys, although Leslie Noble is a woman; Tom Long is certainly a man. The backroom guys and gals run the show. Again, I've heard that criticism come from members of your own caucus. They've made reference in language like "dictatorship" and "lack of democracy," and how the backroom folks run the show.

But you're not the PA. It's not for this committee to elevate you to that position. I believe the Chair has to consider my first point of order.

**Mr Ramsay:** We could vote on that. I'd vote for Klees.

**Mr Kormos:** Quite frankly, your interest appears to be far more acute than Mr Wood's, even though you don't make \$90,000 a year; you only make \$78,000.

**Mr Ramsay:** He's cuter too.

**Mr Kormos:** There you go. You're taller than Mr Wood and you have more hair, more hair than I do even at this point in time.

*Interjection:* Since you got a haircut.

**Mr Kormos:** Yes. I went to Mr Palladini's barber.

Facetiousness aside, you're not the parliamentary assistant and we can't carry on like this. This is not doing credit to the hundreds of people who spent a lot of time and energy developing comments on the bill and it doesn't do credit to us.

**Mr Klees:** Chair, if I might just make one other comment, I don't want this committee or anyone else to be left with the impression that Mr Wood simply walked out of this committee without giving notice. It's a fact that all three caucuses discussed this. Mr Kormos's caucus was advised of it, as was the Liberal caucus. There was an understanding that Mr Wood had a previous commitment and that we would make the suggestion here that I stand in, although I'm not the parliamentary assistant, and neither do I aspire to be the parliamentary assistant, to this ministry. I am very proud to be the parliamentary assistant to the Minister of Community and Social Services.

In light of the fact that Mr Kormos said and I heard Mr Ramsay also say that both of them would vote for me, I would like to suggest that perhaps we put this to a motion and have the committee make a decision on this.

**The Chair:** Is there any further discussion? If not, I will recess for 10 minutes in order to render a decision. We will reconvene at 4:45.

*The committee recessed from 1633 to 1646.*

**The Chair:** I call the meeting to order. I am considering the point of order raised by Mr Kormos, which is most interesting. He states up front and candidly, as always, that the standing orders do not in any way indicate whether or not a minister or his designate or PA should attend at committee hearings when dealing with clause-by-clause of a particular bill, so the standing orders do not help us. However, Mr Kormos suggests that there is tradition or practice that in fact ministers or their parliamentary assistants should be present during clause-by-clause consideration of a bill in order to answer questions, and that quite frankly seems most reasonable to me.

My difficulty is, what is the repercussion if in fact a minister or a parliamentary assistant refuses or neglects to attend this clause-by-clause hearing? Following Mr Kormos's logic, it is incumbent on me to immediately adjourn consideration of the bill, which leaves the Chairman in a difficult position, because I have then forgone my authority and the authority of this particular committee, which is vested to hear a particular bill, and handed that to a minister who can terminate a hearing on a bill by simply not attending. I cannot find that logical.

I believe we have an inherent jurisdiction under the rules, and to find that a minister, by neglecting to attend or send a PA, can adjourn this committee without this committee doing anything about it or without this Chairman having authority I find abhorrent.

I agree with Mr Kormos. I certainly feel that the tradition of having a minister or a parliamentary assistant to answer questions in committee would be the preferred method of procedure, and I can levy no excuse for that. However, I do not feel I'm vested with the authority to adjourn it just because neither the minister nor the parliamentary assistant is present.

**Mr Ramsay:** Thank you, Chair. Maybe then I would like to move a motion of adjournment of these proceedings to next Monday. I know that would then affect our schedule in regard to Bill 105, but the reason I would say that is that in speaking to representatives of the two firefighter organizations just a few minutes ago, and brought to my attention initially by Mr Klees, those representatives have met with the minister today. They were happy with the progress at that meeting and feel that they're back at the table talking to the minister and may be able to solve some of the differences they have.

So the exercise that we're going through here I think is wasting everybody's time, because what Mr Kormos and I wish to do is to buy some time so that the minister and the representatives can come to some agreement. We know they're not going to solve all their problems, but at least they're happy that they're talking again and there seems to be something going on there. I think we should allow that process some time to develop.

**The Chair:** Mr Ramsay has moved an adjournment of this committee hearing until next Monday, April 28, 1997, at 3:30 pm. Is there further discussion in regard to that motion?



**Mr Klees:** I'm going to support Mr Ramsay's motion for the very reason that I do believe that for us to spend an additional hour here today would not be very productive under the circumstances. As I pointed out to Mr Ramsay and to Mr Kormos, there are some productive discussions taking place now and I think there are one or two outstanding issues that we're very close to resolving. Based on that, I really do feel it would be appropriate for us to adjourn and to continue with this particular bill the next time this committee meets. The only outstanding issue would be the rescheduling, because we were scheduled, I believe, to deal with Bill 105. Assuming that we can deal with that rescheduling issue, I think it would be appropriate for us to adjourn.

**Mr Kormos:** Very briefly, I support the position taken by Mr Ramsay and indeed the position taken by Mr Klees — my God, a remarkable thing in itself. But let's look at the fact that amendments have been tabled by the Liberal caucus and by the New Democratic Party and understand that of course they are an effort to address the

concerns raised by opponents to Bill 84. But note that they are very realistic; they don't ask for the world. They're an attempt to moderate and, in the best spirit of good faith, achieve some concessions. Having said that, I think it important that the motion be supported.

I would also note that this is the same committee, obviously, that deals with Bill 105. The committee is going to convene on Monday at 3:30 in any event. Scheduling can be done one way or another around Bill 105 or around Bill 84 at that time. All that Mr Ramsay is moving is that this matter of Bill 84 be adjourned to 3:30 at that time. Subject to whatever discussions take place, it can be proceeded with or it can be deferred to Tuesday, what have you. I think there is that flexibility, and it's obviously ideal that the committee is meeting in any event at 3:30.

**The Chair:** If there is no further discussion on the motion for adjournment, I'll put the question. All those in favour? The motion is carried. We are adjourned until Monday.

*The committee adjourned at 1653.*

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**Clerk / Greffier:** Mr Douglas Arnott

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**Legislative Assembly  
of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Monday 28 April 1997

**Journal  
des débats  
(Hansard)**

Lundi 28 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



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LEGISLATIVE ASSEMBLY OF ONTARIO  
**STANDING COMMITTEE ON  
 ADMINISTRATION OF JUSTICE**

Monday 28 April 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
**COMITÉ PERMANENT DE  
 L'ADMINISTRATION DE LA JUSTICE**

Lundi 28 avril 1997

*The committee met at 1548 in room 228.*

**FIRE PROTECTION AND  
 PREVENTION ACT, 1996**

**LOI DE 1996 SUR LA PRÉVENTION  
 ET LA PROTECTION CONTRE L'INCENDIE**

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services /  
 Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen and members of the committee. This is a continuation of the hearings of the justice committee, consideration of Bill 84. We are here to consider approximately 160 amendments and 104 sections of the act. We are presently dealing with section 2, and Mr Kormos has the floor.

**Mr Peter Kormos (Welland-Thorold):** I recall having gone through section 2 and each of the subsections indicating our caucus's strong opposition to it and relating it to other sections in the bill, indicating how they fit together, they meshed. I don't want to test the patience of committee members. I think committee members get the drift, understand where we're coming from, and I'll be requesting a recorded vote on this when it comes time to vote on section 2.

This is part and parcel of what the real agenda is here, and that's the privatization of fire services and the devaluation of firefighting, and we want no part of it.

Thank you kindly, Chair. There may be others of course who want to comment. There may be some who try to persuade me of the error of my position, and I'd be pleased to listen to them. If their arguments ring true and have any semblance of logic to them, I'm sure I'll be overwhelmed.

**The Chair:** Is there any further discussion?

**Mr David Ramsay (Timiskaming):** I'm pleased to be able to address section 2 of the act here before we vote on it.

I was a little bit surprised also that we have no amendment coming from the government side on this part because I think it really comes to the heart of this legislation in that if we are to be dealing with public safety through fire protection and prevention, then it's important that we make a very strong signal through this legislation to say that not only is the education and prevention component of fire safety in Ontario important, but fire suppression is important also. I think that we haven't

gone the further step in mandating municipalities to organize themselves so they can create departments that offer fire suppression is an error. I certainly accept the statistics that show that a large percentage of fires can be prevented through education and inspection and that's important, and I applaud that it is being mandated in this legislation.

It's also important for at least those 20% of fires that we know will happen regardless of what other programs are in place that we have a first-rate fire suppression system right across this province. We know we have very unequal opportunities and resources in the varying municipalities across the province, but I think there's got to be a provincial interest in suppression of fires.

It's interesting to note that in part IX of the act, the labour relations part, it would appear the government does believe that fire services are essential because they have outlawed the ability of firefighters to strike, yet on the other hand they don't show that fire suppression is essential by, in section 2 here, mandating that service to be delivered to Ontarians across the province, and I think that's sad.

As we go down section 2, we get to talk about organized municipalities and then eventually we talk about territories without municipal organization. Most members of the Legislature from southern Ontario probably aren't very familiar with what we call in the north "unorganized municipalities," but there are literally thousands of people in Ontario, primarily in northern Ontario, who live in unorganized municipalities.

It's interesting to note, and this relates to my point about the essential nature of fire suppression services, that a previous Conservative government, the government of Bill Davis, with Leo Bernier as the Minister of Northern Affairs, as it was called in those days, actually developed a program that supplied what they called a rapid attack truck to unorganized municipalities. This afforded the opportunity for small, at that time probably, local roads boards, because they didn't have a fire services board, to organize themselves into volunteer fire departments, and basically the province of Ontario gave them a truck. This rapid attack truck was sort of a combination of a pumper, an emergency vehicle and a tanker truck, an all-in-one emergency response vehicle that over the last 20 years has served the people of northern Ontario in unorganized communities very, very well, and I was very pleased to see that program.

I just make that point to say that the Harris government in its Common Sense Revolution made a commitment to municipalities not to download responsibility to municipalities without also giving them the resources to carry out those responsibilities. The program I've talked

about in the past that a previous Tory government brought forward transferred those resources to those unorganized municipalities that allowed those unorganized areas of the province to provide a fire suppression service, and I think if this government was serious about that, they would proceed. I would hope this government will, at a later date, give that a second thought.

**The Chair:** Are there any further comments or questions in regard to section 2? If not, I will call the question. I believe Mr Kormos has asked for a recorded vote. There are no amendments to section 2, so the question is, shall section 2 pass?

**Ayes**

Doyle, Guzzo, Klees, Leadston, Parker, Pettit, Rollins, Bob Wood.

**Nays**

Crozier, Kormos, Ramsay.

**The Chair:** Section 2 is carried. We are now dealing with section 3, as amended. We already have dealt with the amendment. Is there any discussion or questions in regard to section 3, as amended?

**Mr Kormos:** Let me try to group these together because this again becomes curious, and curiously, I suppose, the more one looks at it and looks at what's happening.

You've got sub (1), and I appreciate it's not just the fire marshal who may enter into agreements but also a services board — fair enough — "or a prescribed person or organization." Those still leave me scratching my head as to what is being contemplated.

That's dealing with subsection (1), but let's go on. It's fire protection services. That's what subsection (1) provides, that they "may enter into agreements to provide fire protection services." Fire protection services of course is a broad range of services as defined in section 1. Then you go on to subsection (2), though, and it narrows it down from fire protection services. All of a sudden it becomes optional again, because the agreement to provide fire protection services need only provide for no more than fire safety by virtue of appointment of a team or an officer or "the establishment of a fire department."

Obviously if the agreement to provide fire protection services entails only an agreement for the appointment of a community fire safety officer, my question then is, how does subsection (1) have any significance in terms of an agreement to provide fire protection services, because the community safety officer is but one narrow component of fire protection services as defined in subsection (1)?

I am asking the parliamentary assistant or the ministry staff to explain how those two jibe. Clearly if the agreement only provides for the appointment of a community fire safety officer, there isn't an agreement for fire protection services. It appears here that the broad range of things which is entailed in fire protection services is being made optional by virtue of the "or," and it only being in clause (b), because it says "the establishment of a fire department" and it's optional; it doesn't have to be the establishment of a fire department. Obviously if it is the establishment of a fire department, similarly you go

back to the definitions and see what a fire department has to do. A "fire department" means "provide fire protection services," which is that broad range of services.

I suppose the question is, what's the scoop here? Is it the case that territories without municipal organization don't have to have fire departments, nor do they have to provide full fire protection services?

**Mr Bob Wood (London South):** The member has to bear in mind that there are certain remote areas where suppression is not practical and the fact of the matter is you can't provide suppression. All you can really do is provide fire safety officers and that's all that can be done to show people how to deal with a crisis if it arises. So there are certain areas where in fact it's not practical to provide suppression services.

**Mr Kormos:** I appreciate that response. I wonder again, appreciating that the person or organization that could be contracted with or agreed with under subsection (1) — the expanded subsection (1), by virtue of the government amendment, says "prescribed person or organization," so we assume that's restricted to a person or organization that's provided for by regulation or that's defined or listed in the regulation. Once again, what does the government contemplate? Is there any anticipation of what a "person or organization" might be under these various circumstances?

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**Mr Bob Wood:** I think the key to the answer to that is what you just said, which is various circumstances. I think it's going to be looked at case by case to find out what would suit a particular case. I don't think there's a specific answer to that question at this time. Whatever seems to help in a particular area is what's going to be done to facilitate as much protection as possible in the unorganized areas.

**Mr Kormos:** Following up on that, is it conceivable that a Rural/Metro would be a corporate person or organization that would be prescribed by the regulations?

**Mr Bob Wood:** I think it entirely depends on what would provide the most service that's feasible.

**Mr Kormos:** I'm assuming then, or at least I'm drawing the inference, that it's not the government's intention to exclude private so-called firefighting services like Rural/Metro?

**Mr Bob Wood:** I don't think the government excludes any option that will provide the maximum fire protection service possible.

**Mr Kormos:** I appreciate those responses. I expressed concern when the government moved its motion. We didn't support the amendment to subsection 3(1), and it's consistent with, I think, amendments that take place other places in the act.

My interpretation of this is that this again is part and parcel of the goal of this government to open the door, to pave the way, to lay out the red carpet for privatized, for-profit corporate firefighting services. Although we agree with a provision in general, in principle, wherein the fire marshal would — I guess the analogy I'm making, which is becoming obsolete in its own right, is the role that the OPP has played in policing for large parts of Ontario, where they have provided policing in areas which either couldn't maintain a municipal police force or a regional police force or simply historically didn't have one, or in



places where there wasn't the same municipal organization. In my mind, I've been making that type of analogy with section 3 of the bill. In principle, who can quarrel with that? It would seem to be a way whereby the fire marshal's office would supervise the development and maintenance or supervision of some elements of firefighting in those unorganized areas.

But by virtue of the amendment here and the concerns that I still have for the option contained in subsection (2), and hearing what the PA says, seeing that there isn't even any middle ground in terms of some fire protection services, because a fire department is required to provide fire protection services, I think it's as much a victim of poor drafting — no criticism of the skilled people who drafted this, but I suspect it wasn't as much their shortcoming as confusion about where the government wanted to go with this.

We're not going to be supporting section 3, especially amended as it is. This amendment in subsection 3(1) reinforces our worst fears about the future of firefighting in Ontario, which is to say that the future is one of privatized firefighting services with low-trained, low-skilled, poorly qualified if qualified at all, low-wage so-called firefighters of the ilk entertained by operators like Rural/Metro in the United States.

**Mr Ramsay:** I have a question for the parliamentary assistant, and maybe the staff might have that. I'd be curious to know what number of organized municipalities in Ontario do not provide a fire suppression service, and maybe, of the unorganized municipalities, what percentage do not provide a fire suppression service. I don't know if that's at hand, even a ballpark figure.

**Mr Bob Wood:** We'll see what we can find out.

**Mr Bernie Moyle:** There are about four —

**The Chair:** I'm sorry, Fire Marshal, you'll have to speak up to the microphone.

**Mr Moyle:** There are currently about four municipalities that don't have fire suppression services and there's a fairly large number of unincorporated communities that do not have fire suppression services. I can't give you the exact number but I could probably find out for you over some time.

**Mr Bob Wood:** Could you investigate that number, and if it's available, provide that to Mr Ramsay?

**Mr Moyle:** Yes, but there are varying levels of fire suppression in those unincorporated communities, and many of them do not have local services boards, which makes it very difficult to organize fire protection in those communities.

**Mr Ramsay:** What I'd also find interesting, Fire Marshal, if you could supply it, is how many people, how many homeowners, property owners in Ontario, are living without a basic fire suppression service. That would be interesting to know.

**Mr Moyle:** There's a very small number, but I can get you that number.

**Mr Ramsay:** Good. Thank you very much.

**The Chair:** Are there any further questions or comment? If not, I'll put the question.

**Mr Kormos:** Recorded vote, please.

**The Chair:** Yes. Shall section 3 pass, as amended? A recorded vote is requested.

## Ayes

Doyle, Guzzo, Klees, Leadston, Parker, Pettit, Rollins, Bob Wood.

## Nays

Kormos, Ramsay.

**The Chair:** The motion carries.

We are proceeding to section 4. We have dealt with the amendment. Is there any comment or discussion in regard to section 4, as amended?

**Mr Kormos:** Once again, I made reference in the discussion over section 3 of the bill where the amendment added to fire marshal as being the authority entitled to enter into an agreement, and that same expanded list of persons, organizations etc permitted to provide these services is contained once again here. The same arguments are valid.

Again there seems to be, unless the government was hell-bent, as I believe it is — let's see. If it wasn't hell-bent, as I believe it is, on encouraging private firefighting services, there would be no need to add "prescribed person or organization." The mere agreement with the fire marshal, in my view, would be a loose enough sort of thing that any number of even creative ways could be utilized for the fire marshal to provide those services.

I'm concerned about those amendments. It's for that reason that we're not going to support section 4 either, indicating all the while, throughout the discussion over section 4, as we have with respect to other parts of the bill, that we support, and I don't think there's a single sector in the community that doesn't support, the government's encouragement by virtue of legislation of fire safety and fire prevention, fire safety education and fire prevention education. That's not the issue here. It's common ground, and that's the one area, the one aspect of the bill, that has been applauded by every single group, individual, participant from whatever background at this hearing. But because this has been amended to become part and parcel of that privatization agenda, and consistent with what we embarked on earlier today with the announcement from the government — it's not hiding its light under a bushel in that regard — we won't be supporting section 4.

**The Chair:** Any further discussion in regard to section 4, as amended?

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**Mr Ramsay:** I would have another question for the fire marshal. What type of fire safety program would you have in mind for these very small unorganized areas? Would there be any resources or other type of assistance provided to these small fire organizations in these unorganized areas so that they can fulfil the mandate of the bill?

**Mr Moyle:** The approach we'll be taking is with community fire safety teams which will have a life safety focus — in other words, family escape plans, fire extinguishers in the home, smoke alarms and those kinds of things — to ensure that if a house does catch fire, they will get out safely. That's really in those communities that just don't have the financial means or the human resources concentrated in an area to form a fire suppression unit.

We will always encourage every municipality, even unorganized communities, if at all possible, to have some kind of suppression, but that just isn't always possible, and that's why the legislation is drafted like that. There are areas in the province that just can't mount that. Although we would like to see it, the reality is they can't, so that first line of defence will be community fire safety teams.

**The Chair:** Any further discussion? If not, I'll put the question.

**Mr Kormos:** Recorded vote, please.

**The Chair:** Shall section 4, as amended, carry? A recorded vote is requested.

#### Ayes

Doyle, Guzzo, Klees, Leadston, Parker, Pettit, Rollins, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** Section 4, as amended, carries.

We are now proceeding to a proposed to new section 4.1. Mr Ramsay has the first motion, which is item 8 of your amendments.

**Mr Ramsay:** I move that the bill be amended by adding the following section:

"Fire suppression services

"4.1 No person other than a firefighter working in a fire department shall provide fire suppression services."

I think this motion and one soon to follow after this motion strike at the heart of what this bill is about, and certainly the perception of what this bill is about, and that is the privatization of fire and emergency services in this province.

I think reasonable people on both sides, after hearing the way many fire departments have maybe organized themselves in the past, the way other emergency services have organized themselves, have looked at a separation between fire suppression and fire safety services, and maybe some of the other functions that happen in a fire department. For instance, you may have a small community that has its own municipal police force and it also has a fire department. It might make sense for that municipal organization to have one person do the dispatch work for those emergency services.

There may be some other efficiencies to be found in looking at reorganizing some emergency services, but what really struck all the members on all sides, I believe, and especially a couple on the government side who aren't here today, one thing that should be preserved, is that fire suppression services in Ontario should remain in the public domain.

There are some interesting points to be made about why, but first off, what's interesting is an examination to see, is this a service maybe that needs fixing today in Ontario? From what we heard, the vast majority of the presenters who came before our committee had stated to us over the last few weeks that what people expect of their government is probably the type of service that the fire department delivers today.

As the chief from Phoenix, Arizona, said when he spoke to us in Hamilton, "What other government service responds to you immediately after asking only two questions: 'Where are you?' and 'What's the problem?'" If there ever was a government service that gave people their money's worth, that responded immediately and did so in a very efficient and effective way, it's got to be our fire and emergency services here in Ontario. I don't think there's really any dispute about that, and the overwhelming majority of presenters before our committee felt we should not be fiddling with fire suppression services.

It's paramount that we make sure we have a first-rate fire suppression service. That's why in this motion I have differentiated between total fire and emergency services and suppression services, because I think we've all felt that the suppression side at least should remain in the public domain for the efficiency that's there and also for the accountability.

The other thing about these types of services that I think is important — and if you'll remember, we had Michael Prue, the mayor of East York, here and they started to go down the privatization trail a few years ago. They started with their tax collection services, with their parking fine violation services, thinking these are services that, even if they didn't work that smoothly in the beginning, hopefully would be cost-effective. It turned out they weren't cost-effective in the end, according to Mayor Prue, but at least if they were going to start to sort of fiddle with these things to try to find some cost efficiencies for their ratepayers, these were services where if there were initial complaints, at least nobody's life was put in jeopardy. Maybe billing was slow or the fines weren't all collected properly, but people could learn on the job and there really wasn't much harm done, and hopefully in a few months, with the initiation of the new service, people in the community would be served well and things would start to be running efficiently.

One thing he said was that they really did differentiate between that type of basically clerical work and public safety and security work that a fire and emergency service would provide; they did not want to touch that. Many other representatives of municipalities and chiefs representing very large municipalities said they were not interested at all in privatizing their fire services. I think the reason for that and what's really important, after hearing all the sort of American anecdotes that have come out of primarily the southwest United States, was that a company's mandate is obviously to do well, to do well for itself and for its shareholders. That's the way our system works. By and large that works very well in the consumer society that we have. It's the private sector that is able to afford us a tremendous selection in consumer goods and services. Our system flourishes and thrives on that.

But when it comes to emergency services, services where lives are at risk, it's very important that we employ a group of men and women who are directly in the government employ so that they are there to do the public good, so they are there to do good for the public and not just do well for themselves. I think that's a very important philosophical point that really must be kept uppermost in our minds when we go down this track of reinventing



government. In our rush to find ways to become more cost-effective and deliver government services in an efficient manner, it's very important that we look at public accountability in a direct fashion when it comes to public safety and security.

Privatizing especially the fire suppression part of a fire department would absolutely be the wrong way to go and I think it's very important that we have amendments in place in this legislation that would prevent that.

**Mr Bob Wood:** I'd like to speak very briefly to this. I think members already know the government's view on this matter, which is that the matter of quality control is best dealt with by giving the fire marshal the authority to investigate the adequacy of fire protection and the cabinet the authority to make orders if needed. That's our approach to quality control, which of course is different from those of the two opposition parties.

1620

**Mr Ramsay:** I would certainly be looking at the day when the Harris cabinet orders an Ontario municipality to beef up its fire service. If that's necessary, I hope that would happen, but I'm not sure that will happen. That's why I'd like to see some safeguards built into this legislation before we even offer that chance of something going wrong out there and people in some municipality not being afforded the very best protection they deserve.

**Mr Kormos:** First, I want to indicate I'm going to support the Liberal amendment. Having said that, I also want to make it clear that I don't share Mr Ramsay's rather benign view of the corporate world, but I do support the amendment.

I want to address first the comment made by the parliamentary assistant, because we've heard that reference to subsection (7) of section 2 throughout the course of these hearings. The government members from time to time flash that as some sort of icon or some way of soothing all the fears. But when we were discussing — and I appreciate that it was last week — subsection 2(7), we pointed out that first of all, subsection (7) says that the fire marshal “may” monitor and review the fire protection services. So it's entirely discretionary. There isn't a requirement there on the part of the fire marshal that there be monitoring and review.

There are questions that have been raised during the course of these hearings about the capacity of the fire marshal's office, unless it receives significantly more resources, to undertake the monitoring and reviews that it would be called upon to perform and the lack of real authority. I don't want to dwell on section 2 overly much because obviously the government's passed that. The opposition people opposed it. But it's strange that the government here wouldn't incorporate legislatively minimum standards. It's prepared to do that under section 2, subsections (7), (8), (9) and (10), on a discretionary basis on the part of the fire marshal, and on an ad hoc basis. In other words, there can be standards set for one municipality that don't apply to other municipalities. That's what the bill says.

We heard a lot, and good stuff. We heard some really good stuff about the fundamental principles of minimum staffing, for instance, and how municipal fire departments across Ontario are still failing to abide by standards that

are expressed by the fire marshal that are consistent with standards internationally. I make reference again to the level of staffing required on a pumper truck if those firefighters are going to adequately perform the services.

I don't buy into what the parliamentary assistant says there about subsection 2(7), and I'm not sure he really believes it either, because I know he's read that over and over again and scratched his head as to how effective that's going to be when it's purely discretionary. Late at night he's had reservations about it and has wanted the time to sit down and ask some of these same questions himself of the staff and of the minister, but everybody's been busy lately.

I'm interested to see how the committee responds to this new 4.1. I'm supporting it. I hope it gets passed. The committee then will be called upon to consider another amendment which by its nature then would have to be presumed to be 4.2, which I believe is very much in order because it doesn't contradict 4.1; it builds on that. Section 4.1 is the bare bones, the minimum. The movers of this amendment have been very generous in suggesting that they're prepared, and I understand that, at the very least, the actual fire suppression, the hands-on, most dangerous of work, dirtiest of work, the one that is the most critical, be performed by professional firefighters working in the public sector.

This doesn't, of course, eliminate volunteers, because if you take a look at section 1 and the definition of “firefighter,” you'll see that firefighter as it's defined includes volunteer firefighters. So there's no exclusion here or failure to recognize the value or the important role of volunteer firefighters in any number of communities and at various levels, some places where 100% of the fire suppression services are performed by volunteers, others where the volunteer are a complement in a integrated or blended fire service.

It strikes me as again curiouser and curiouser that the government wouldn't embrace this amendment and say, “Here's a way to make this bill do what we say we want to do.” It leaves one to suspect that maybe the government doesn't really want to do what it says it wants to do, but rather intends to do what a more careful analysis of these sections and amendment indicates.

So I thank you. I'd love to hear from some of the government members on this committee as to whether or not they're going to support this amendment and why. I am eager to hear from them. I know their constituents would want to hear from them as well, and the firefighters in their communities, whether it's Doug Rollins, the firefighters in his community, whether it's Ed Doyle and the people in his community, whether it's Gary Guzzo and the people in his community, whether it's Frank Klees and the people in his community, Gary Leadston and the people in his community or John Parker and the people in his community.

Their firefighters and the people in their communities would dearly love to know where they stand on this amendment and why, and here's an opportunity for them to get on the record. I can assure them that my office will accommodate them, that my office will undertake to distribute their comments to key people in their respective communities. I'd be the first to get copies of the Hansard

from this committee and distribute it to Mr Klees's community, for instance, especially the firefighters there, to let them know where Mr Klees stands on this amendment and where he stands on privatization of firefighting services, and if he's prepared to put his money where his mouth is. By God, I'm looking forward to telling the firefighters in his community what Mr Klees has to say in this committee.

**The Chair:** Are there any further question or comments? If not, the motion is by Mr Ramsay amending the act to provide for a new section 4.1. I put the question. Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Klees, Leadston, Parker, Rollins, Bob Wood.

**The Chair:** The amendment is lost. We are proceeding to item 9, a proposed amendment by the third party. Mr Kormos?

**Mr Kormos:** I was getting just a quick comment on a judgement that was rendered in an ongoing trial — other than mine. It was interesting. It's not part and parcel of this committee hearing, but again it was quite interesting.

I move that the bill be amended by adding the following section:

"Fire protection services

"4.1 Where a municipality has established a fire department, no person other than a firefighter working in a fire department shall provide fire protection services."

The amendment shares some of the qualities of Mr Ramsay's. In some respects it's a little broader and perhaps less generous to the government in that regard than Mr Ramsay's might at first blush appear to have been. But at the same time, it qualifies it very much by pointing out that this is applicable only in municipalities that have established a fire department. My suggestion is that the language here is clear, that it takes it outside of the realm of those areas, for instance, the non-organized areas that we've talked about, where the fire marshal or the private operators would be providing services.

1630

Once again, and I don't want to read things into it, but I suspect part of the Liberal motivation for their amendment was out of a sense of concern for the government members on the committee. Several of them have, over the course of these hearings, insisted that they don't support private firefighting services.

**Mr Ramsay:** Where are they?

**Mr Kormos:** Here are two amendments: first, the Liberal amendment which sadly was just defeated. Here's a chance for a second kick at the can, folks. To the government members on the committee, you've wanted to be quoted in your local press, I am sure, and by firefighters from your area who have appeared in front of the committee as being in opposition to privatization of firefighting services.

I know that Mr Carr, the former parliamentary assistant, had growing reservations about privatized firefighting services. Mr Johnson, who is, I know, one of the hardest-working members of the Conservative caucus —

**Mr Ramsay:** Absolutely.

**Mr Kormos:** Well, he is. I don't want to belittle any of the others, but he quite frankly has impressed me as harder working than any other member of his caucus, and I say that being intimately familiar with what his day consists of. There is a person who doesn't let a moment pass without utilizing it for somebody's benefit, as often as not his own.

But here's a chance for government members to indicate — and again, I know Mr Johnson, Ron Johnson from Brantford, would have taken advantage of this opportunity. I am sure he would have. And I know Mr Carr would have, had he not been pulled from the committee because of — I think he was sort of being seen as starting to get soft on them firefighters, those special-interest groups, you know, those women and men who put their lives on the line on a daily basis, on an hourly basis, to protect life and property.

So I say to the government members, here's your chance to redeem yourselves in your communities, to point out that you supported an amendment. Do you know what would be neat, Chair? Right now, because we have small caucuses — Lord knows my caucus is even smaller than Mr Ramsay's and there's even fewer of us. Mr Ramsay's here; I'm here.

This government, with Mr Wood voting, would only need — some of the government members could vote for this amendment, could support this amendment, and not risk the fear of having it pass. That's a little weaselly, but here you are. There are only two of us over on this side at the moment. Government members, if you wanted to take advantage of this opportunity to be able to go back to your community and say, "Well, I tried, at great risk to my political future in this Harris regime" — you could say to your people, "Look what happens to people who buck the trend, people like Bill Murdoch, people like Gary Carr, people like Tony Skarica."

**Mr Ramsay:** Adios, Pierre.

**Mr Kormos:** Mind you, people in all likelihood have a stronger likelihood of getting re-elected and they've endeared themselves to their constituencies by identifying the Premier as a dictator and by pointing out that the government is run by a small group of backroom people in the dark, smoke-filled back rooms of the Whitney Block.

So I say to government members, here's your chance to put your money where your mouth is. I suppose that's a phrase that might be appropriate. I want every one of them to have a chance to support this, so perhaps they'll be requesting a 20-minute adjournment, when the vote is called, to caucus.

**Mr Ramsay:** Think about it.

**Mr Kormos:** I implore them to consider that. This is yet another variation of the Liberal amendment. It's one that qualifies this, so it's not going to tie the government's hands but it's going to give most communities and the citizenry in those communities a little more assurance that it won't be — I think one of the presenters talked about the Keystone cops type of firefighting, the Rural/Metro types of examples, that it's not going to be that sort of sad, tragic horror show, but professional firefighters providing fire protection services.



I appreciate the chance — and again, to those government members who want to support this, I will call your local press at 6 o'clock to tell them that the MPP from their riding did their humble best to take on or confront a government that has become increasingly dictatorial, and that they were prepared to take their chances and risk favour with he of the links in the course of pursuing the best interests of their constituents.

**Mr Ramsay:** I think it should be really spelled out for the government members that we in the opposition are giving you this afternoon at least three chances — through the previous amendment, this one that Mr Kormos has placed and the next one that I am going to place soon, unless of course you vote for this one and I would withdraw mine — an opportunity to vote the way I think many of the members on this committee have felt over the presentation period as we travelled the province, that it probably was inappropriate for municipalities to privatize the fire services.

It's unfortunate that a couple of the members who actually had voiced support for the content of these amendments are no longer here. That's sad, because what was happening in those days that we travelled the province and listened to all those presenters was that many of the reasonable arguments that were being presented by the public to the committee were starting to resonate with not only the opposition members, who were supportive all along of these sorts of amendments, but some of the government members were starting to understand the importance of keeping fire suppression services especially in the public domain.

Quite frankly, it was refreshing to me when these remarks from the government members on this committee were being heard, in some of the cities that we travelled, that actually we weren't wasting our time on these trips, that by going around and listening to people and getting a message over and over again, it started to sink in with some people. I thought we were making some progress.

Unfortunately, the actions two weeks ago of the Premier in changing not only parliamentary assistantships but membership on the committees has really changed all that. I fear this motion will not be long-lived.

I will cease my remarks on this one and allow it to go to a vote.

**Mr Kormos:** I just realized how selfish I've been, Chair. I realized here you are, you've been sitting as Chair through these hearings, you make that extra \$8,000-plus a year —

**Mr Ramsay:** It's \$10,000 now.

**Mr Kormos:** There are only eight members of the whole 83-member Tory caucus who don't get something in addition to their base paycheque. There are only eight members who aren't at the trough. But here you are, you make the extra \$8,000 or so a year, and you're stuck as Chair. You don't get to think, you don't get to contemplate, you don't get to reflect on the bill or whether you should support an amendment or oppose a particular section, yet you have a constituency too. I know folks in your communities are concerned about privatization of firefighting services.

Chair, I'll tell you what I'm prepared to do. For the purpose of this vote, I'm prepared to assume the chair,

knowing that I won't have a right to cast a vote, so that you can sit there and let your position be known. Once again, I'd be the first person to get a hold of your local firefighters and tell them where you stood on privatization of firefighting services.

1640

I'm prepared to assume the chair. Nobody in the committee will mind and it's perfectly legal to assume the chair for the purposes of the vote so you can cast a ballot. You might even have some things to say about it so that your community can know where you stand on firefighting services so they can use that when they exercise their judgement as to whether or not they want to support you. Because right now they're asking you to support them. Being the Chair puts you in a position where you're being forced to hide your light under a bushel, and nobody should have to hide their light under a bushel, Chair.

I'm prepared to take it on with no pay. I realize I'm not going to be compensated for it. I won't get a fraction of that \$8,000-plus a year you earn, but I'm prepared to take over the chair for the minute and a half it takes for you to vote on this amendment so that you can, with confidence, go home tonight or tomorrow night or on the weekend, whenever, and tell your folks back home you not only said you opposed privatization of fire services, but by God you voted that way too.

**The Chair:** Thank you very much for your kind offer.

**Mr Kormos:** Think nothing of it, Chair.

**The Chair:** I can assure you that the firefighters in my area are well aware of my views. We've had discussions. I shudder to think what you could do in a minute and a half in this chair.

**Mr Ramsay:** He could probably burn the place down by then.

**Mr Garry J. Guzzo (Ottawa-Rideau):** How long did Bob Rae leave you in cabinet?

**Mr Kormos:** He left me in caucus. But you know what, Judge? He's not here and I am.

**Mr Guzzo:** That's right. Never forget it.

**Mr Frank Klees (York-Mackenzie):** I'm pleased to see the decision you made about the offer that Mr Kormos made. For a moment I was quite concerned that you may even be slightly tempted to hand over the chair for a minute and a half. For the same reason, I was going to appeal to you that we not allow even the smallest room for Mr Kormos to have his way.

I also wanted to thank Mr Kormos for offering to do some public relations for me. I want to publicly decline that offer for the same reason. I am sure the firefighters in my riding understand very well where I stand on this particular bill and I am sure they also understand that, as a member of this committee on the government side, I have certainly done my job in ensuring that the public interest is served in the passing of this bill, and I'm confident it will be served well.

**Mr Kormos:** I feel like a salmon that's just had a fly cast over its head; I can't resist rising to the occasion. I have no doubt that the firefighters in Mr Klees's riding know his views and where he stands when they read the Hansard of this committee hearing and the recorded votes that put Mr Klees on record, knowing that his vote could

have made a difference. Gary Carr made a difference. Ron Johnson made a difference. Tony Skarica made a difference. Bill Murdoch is going to keep making differences for the rest of his political career. I have no quarrel with that.

**Mr Klees:** How much are they paying you?

**Mr Kormos:** Run that past me again.

At the same time, Mr Klees having declined my generous offer, I just may end up in his community at some point, in any event.

**Mr Klees:** You're welcome.

**Mr Kormos:** I've always felt welcome in your community. The folks there have treated me well, and indeed I'm sure Mr Klees would as well. But come on, folks. Let's not hide your lights under bushels. Here's your chance to stand up and be counted. You're going to pick a side on this vote. You're either for the firefighters or you're agin them; you're for community protection or you're against it. I encourage you, I urge you — what's the phrase, Member Guzzo? — I exhort you to do the right thing.

Recorded vote, please.

**The Chair:** Are there any further questions or comments in regard to Mr Kormos's motion? If not, I'll put the question.

We are voting on Mr Kormos's motion to create a new section 4.1.

All those in favour of the amendment?

**Ayes**

Kormos, Ramsay.

**The Chair:** All those against?

**Nays**

Doyle, Guzzo, Klees, Leadston, Parker, Ross, Bob Wood.

**The Chair:** The motion to amend fails.

We are proceeding to item 10 of your proposed amendments. That is an amendment proposed by Mr Ramsay.

**Mr Ramsay:** I move that section 5 of the bill be amended by adding the following subsection:

"Fire suppression

"(2) No person other than a firefighter working in a fire department employed directly by the council of a municipality shall provide fire suppression services."

As you see, this is somewhat similar to the previous motion, somewhat similar to the motion previous to that, but I think you'll see that in the last one and this one, each of us critics for this bill was really trying to, in very plain language, narrow down our understanding of the component part of a fire department, that we're talking about people employed directly by a municipality and specifically we're talking about fire suppression services only — at least I have in this one, and I've done this on purpose.

If I was allowed to title this amendment, it would be called the Ron Johnson memorial amendment. Really, this was a gift for Ron, because over the time that Ron, the member for Brantford, was on this committee, starting in

Toronto, and heard the various deputations that were brought before us in the justice committee — he carried on travelling across the province with us until about Hamilton. It was sometime in the mid-afternoon of Hamilton that all of a sudden he just wasn't there.

It was sad to see that he was turfed. My feeling is that he was turfed from this committee because he was starting to understand the concern that many citizens of this province brought forward to this committee through our deliberations as to the threat to the people of Ontario and to their lives and livelihood by the privatization of fire services.

For a Tory, Ron was pretty reasonable. He said, "I'm not absolutely forbidding the privatization of fire departments or total fire protection services," but for sure he said he was against the privatization of fire suppression services.

That's why I developed this particular amendment, so that Ron would have the opportunity to put his vote where his mouth was, and I believe still is. In fact, I had tremendous faith, and I think the government did also, that he would have supported this motion.

I almost feel like calling for a minute of silence here, to give a eulogy or something, but it really does sadden me that Mr Johnson didn't have the opportunity to publicly put on the record his growing strong feelings about the foolishness of allowing municipalities to privatize fire suppression services in Ontario.

Again, I want to remind the government members that while the previous motion dealt with fire protection services, this one now narrows it down to fire suppression services only. I would ask the government members to really think about that. If it is not the intention of the Solicitor General of the province to encourage municipalities to privatize their fire suppression services, why not make an expression of Ontario interest, that it is in the interests of this province to guarantee and encourage the very best fire suppression services in this province, that it's the view of this province that that service should remain in the public domain?

**1650**

I would make a plea for the government members to consider this. I think this is your last opportunity to really come down to where we heard the majority of the presenters bring us that message, that at least as a minimal effort from the government, fire suppression services should not be privatized. I would ask the government members to consider this.

**The Chair:** Thank you, Mr Ramsay. I can only hope I receive the same glowing accolades from you when I move on.

**Mr Ramsay:** Chair, you will. There's no doubt about it.

**Mr Kormos:** Gosh, Mr Ramsay's generosity of spirit in proposing a moment of silence was fascinating.

**Mr Ramsay:** Do you want a hankie?

**Mr Kormos:** No. I think Ron would rather prefer that we pass the collection plate. After all, he got stiffed out of a little stipend of around \$4,500 a year for being a Vice-Chair. Being a Vice-Chair is a very onerous position. If you're the Vice-Chair, you pick up \$4,500 or so on top of your parliamentary salary. You've got to make



sure that the little name tag is inserted that says, "Vice-Chair" under your name, that the clerk hasn't inserted it upside down, for instance.

Ron Johnson fulfilled his responsibilities as Vice-Chair with enthusiasm, vigour and commitment. He is one of those eight people out of 83 in the Conservative caucus who has been forced away from the trough, who gets nothing but his \$78,004 a year — that's the minimum wage here at Queen's Park, \$78,004 — plus 5% on top of that that's put into an RRSP on your behalf by the government, that becomes in additional income of \$4,000 a year, give or take. That's the minimum wage around here.

I can't understand. I've looked for a firefighter in the province, one of the women or men who are out there fighting fires, saving people, doing fire prevention, who makes anything near that. I haven't found any yet. It's quite remarkable that so many, all but eight, are at the trough. Ron, of course — I'm surprised, because he hasn't been as outspoken as Mr Skarica or Mr Murdoch or Mr Carr — we should never forget Mr Carr. But then again, as Bill Murdoch said, the style around here is if you want to get ahead if you're in the Tory backbench, you've got to pucker up. Maybe Ron's working on his pucker; I don't know.

**Mr Klees:** You're getting closer to the truth all the time.

**Mr Kormos:** I just wanted to indicate that I support this amendment of the Liberals. I should note Mr Klees indicated that it appears I'm getting closer to the truth all the time. I don't know whether he was praising my insight or commenting on Mr Johnson's preparedness to pucker up again, to be restored to grace.

**Mr Klees:** Oh, I thought you said he was practising his putting.

**Mr Kormos:** If Mr Klees is referring to Mr Johnson's ability on the golf course, I'm sure that's one of the things that endeared him to the Premier. After all, it was the Premier who jetted down to Atlanta while the House was sitting, to watch the Master's tournament there. We haven't got our FOI back on who paid for that trip and whether government credit cards were used to finance any part of it, or hotel rooms or meals.

Heck, Mr Johnson's well-known affection for the links certainly did nothing other than put him in good stead with a Premier whose affection for the links took him from Ontario in some of the most critical moments of the Legislature, to fly down to Atlanta and visit the Master's tournament down there.

I'm supporting this amendment. It's interesting that here it's a part of section 5, and I think that distinguishes it from when it stood alone as 4.1. It makes it a similar and analogous but very different amendment, and one, again, that I'd love to see even a couple, even one government member show the courage of their convictions to vote in support of. I think that's why recorded votes are good things, because you get a chance to stand up and be counted, or in this case sit down, raise your hand and be counted.

**The Chair:** We're dealing with Mr Ramsay's motion to amend section 5. I'll call the question.

**Mr Kormos:** Recorded vote.

**The Chair:** We have a recorded vote requested.

## Ayes

Kormos, Ramsay.

## Nays

Doyle, Guzzo, Klees, Leadston, Parker, Ross, Bob Wood.

**The Chair:** The amendment is lost.

We're proceeding to item 11.

**Mr Bob Wood:** I move that section 5 of the bill be amended by adding the following subsections:

"Same

"(2) Subject to subsection (3), the council of a municipality may establish more than one fire department for the municipality.

"Exception

"(3) The council of a municipality may not establish more than one fire department if, for a period of at least 12 months before the day this act comes into force, fire protection services in the municipality were provided by a fire department composed exclusively of full-time firefighters.

"Same

"(4) The councils of two or more municipalities may establish one or more fire departments for the municipalities."

This amendment gives municipalities the option of establishing one or more departments with one or more chiefs. This provides for more flexibility, and complements provisions in the Municipal Act and Bill 26 that permit municipalities to retain existing fire departments in amalgamations.

**Mr Ramsay:** I have a question to the parliamentary assistant. He just explained that this would allow councils to establish more than one fire department and municipalities — the same thing, I guess — to establish more than one fire department with more than one chief. We've just gone through an exercise of amalgamating the municipalities in Metropolitan Toronto into one, and one of the things we were saying was that there were six fire departments and that was very inefficient. Now we're setting up an amendment here that will allow a municipality to have more than one fire department. What's the real reason for that?

**Mr Bob Wood:** The reason for that is to give flexibility to the municipalities on how they organize their firefighting efforts. If you take a look at the proposed subsection (3), if it applied to the recent amalgamation, it would not permit numerous fire departments.

**Mr Kormos:** Before I comment on it, I want to put a couple of questions to the PA as well. I noticed that "municipality" isn't defined in the bill to say, "Municipality" means a regional municipality or a city that's a part of a regional municipality."

Am I being overly suspicious here if I see this as a complement to some other legislation not yet prepared that would regionalize firefighting services, say, in the regional municipality of Niagara, where this would complement legislation that would give the regional municipality control over firefighting services, but if it wanted to be political and maintain some distinction between the Niagara Falls service as it exists now and the

Welland service or the Port Colborne service, that would be a condition wherein it could establish more than one fire department? Is there something going on here that's not apparent?

**Mr Bob Wood:** Not that I'm aware of.

**Mr Kormos:** Okay.

Further, when you say, "composed exclusively of full-time firefighters," when you say "full-time" — I apologize for not having anticipated this — does that exclude volunteers? When you say "composed exclusively of full-time firefighters," does that mean a fire department without volunteers, who would be considered less than full-time firefighters?

**Mr Bob Wood:** Volunteers are not full-time firefighters.

1700

**Mr Kormos:** Okay, so any fire department that had volunteers as part of its overall firefighting service would be among those excluded by subsection (3)?

**Mr Bob Wood:** I think it would be the reverse. If you have volunteers, you're not included in subsection (3). Volunteers are not considered full-time firefighters. I think it's the reverse of what you said.

**Mr Kormos:** So it's only if you've got 12 months before the day the act comes into force that a municipality is pure, 100% full-time firefighting services, without volunteers of any ilk or shape or form or sort, that it's excepted from the council's power to establish more than one fire department.

**Mr Bob Wood:** I'm sorry, I missed the last half of your sentence.

**Mr Kormos:** I'm not sure — and I'll tell the fire marshal now I'd like a handle on how many fire departments we'd be talking about that are full-time and have no volunteer component, because that wouldn't mean volunteer firefighting areas, because they're obviously 100% part-time; it wouldn't mean any fire department wherein you had a composite firefighting team of full-time professionals and volunteers. So I suspect we're talking geographically about a very small part of the province and very few cities that would meet this condition, where it's 100%, full-time firefighters.

**Mr Bob Wood:** Perhaps Mr Moyle can address your specific question. I'll address the general policy questions.

**Mr Moyle:** There are 32 full-time fire departments now in the province of Ontario that employ exclusively full-time fire departments.

**Mr Kormos:** Could we have an example, just to get a handle on this?

**Mr Moyle:** An example is the six fire departments in Metropolitan Toronto, Hamilton, I think Cambridge, a few of those are exclusively full-time. They're large fire departments, for the most part.

**Mr Kormos:** With no volunteer component.

**Mr Moyle:** With no volunteer component. There are approximately 32. It changes from time to time, but it's approximately 32.

**Mr Kormos:** Thank you kindly. Before you respond, just so we can try to put this all together in one, you've got to run past me again what would be the desired goal here, what would be the desired end and why you would

restrict it, or why you would accept — because we've only got 32 communities that will fall into this exception, which means 770 Ontario communities, give or take, would be subject to this power. Why would you want to do that? What's the motive here and why are you excluding those 32 communities like Toronto, the Cambridge area, the Hamilton area etc that have 100% full-time professional firefighters with no volunteers?

**Mr Bob Wood:** The overall purpose is to give flexibility to the municipalities on how they set up their firefighting services. It does not appear to us, however, that there's any purpose in splitting up those 32 departments, plus or minus. We don't see any value in that being done. So we're giving flexibility, but limiting it where we see no purpose in that flexibility being used.

**Mr Kormos:** Okay, but again, can you give an example, albeit speculative, about how a municipality would use this power to, I trust, acquire efficiencies or economies? Give us an example, please, of where this would happen, where you would achieve efficiencies or economies. I'm really trying to visualize it, and I can't.

**Mr Bob Wood:** Our view on that is that ball should properly be in the municipality's court. If they indeed think having more than one fire department is going to provide the same or better service at the same or less cost, we're prepared to let them do that and be responsible to their voters. It is, of course, subject to the overall control mentioned earlier of the fire marshal and the cabinet.

**Mr Kormos:** I'm eager to hear what Mr Ramsay has to say.

**Mr Ramsay:** Amendments like this just don't come out of thin air. For me to have an understanding of what this is about, pursuing the line of questioning of my colleague here — maybe I could ask the fire marshal, without naming the names of the municipalities, what sort of problem has occurred in the past that has caused this to be placed in this bill, that obviously somebody thinks it's going to provide better firefighting or fire protection services for Ontario.

What's the problem this tries to address? Did municipalities come forward and say, "Gee, if we had more flexibility of somehow having more than one fire department, we could better protect the people"? Everything we've been working on in this bill, it seems to me, has been to make fire departments more efficient, you wanted more management people in it, and now we're talking all of a sudden about more fire departments in a municipality. It doesn't seem consistent with the rest of the bill.

**Mr Bob Wood:** We would regard it as consistent. The municipalities have said they are ready for more responsibility, and we think that's right. They've also said they're going to exercise that responsibly, and we think that's right. So we're going to give them the flexibility they say they need in order to achieve the goals of better protection and affordable cost.

However, subsection (3) is there because we can see no benefit in those 32, plus or minus, municipalities splitting the fire departments up. So it's quite consistent with the overall scheme of the act, and indeed with general government policy.



**Mr Ramsay:** Could the reason be that if you had a composite fire department you could privatize the full-time part of the fire department and still, maybe in some of the more rural areas of your municipality, keep that as a volunteer basis and therefore you would have to have two or more different fire departments? Would that be the reason?

**Mr Bob Wood:** The reason really is as stated, to give them the flexibility they say they need to achieve the goals that I just outlined.

**The Chair:** Are you two done?

**Mr Ramsay:** I am.

**Mr Kormos:** Once again, it's getting curiousest and curiousest, because when the fire marshal says that cities like Toronto, at least the new megacity; Hamilton, which we know has been targeted for amalgamation and merger; Cambridge I can't speak to in that regard — let me get this clear. Let's say that after this megacity fiasco, people were elected to the new megacity council who were forced to live with Bill 103 but who said, "No, we still want to maintain some semblance of municipality for our historical municipalities." They would be precluded from permitting the East York fire department from maintaining its individual and distinct status.

**Mr Ramsay:** For 12 months.

**Mr Kormos:** No, not for 12 months, because it doesn't control the time frame in which you can do it. "If, for a period of at least 12 months before...fire protection services...were provided." So that means forever and ever and ever — and similarly in Hamilton.

I heard you say, "giving municipalities the flexibility." Heck, then, why don't you let municipalities determine what "fire protection services" means? Why don't you let them determine any number of other things? This is just a little mind-boggling, why a municipality would want to have more than one fire department, unless there was something more going on here.

The other thing I'm fearful of is, is this a ruse whereby even though the government's been very generous with its empowerment of municipalities to determine who's management, to pull people out of the collective bargaining unit, is this a ruse to chop up a fire department into several fire departments, each with its own chief, deputy chief, what have you, so that you give the municipality even more power to make a fire department management-heavy? Because that would seem to be one of the impacts of permitting more than one fire department in a municipality.

I'm not quarrelling with the fact that you say municipalities have requested this type of flexibility. Further to what Mr Ramsay's queried of you, what kinds of municipalities have sought this particular power and for what conceivable reason? I just can't for the life of me think of where it would. I'd love to hear of a scenario. It would calm my fears.

**Mr Bob Wood:** It's in response to the strong message we've received for the past two years from municipalities. They want more flexibility in order to best deliver the best possible service at the most affordable cost, and this is part of our overall plan to do precisely that.

It is true, of course, that if a municipality wants to do things that are counterproductive, it's entitled to do that,

I suppose. However, they're responsible, number one, to their own voters and, number two, they're ultimately responsible to this Legislature. We think they're not going to do that. We think they're going to do it responsibly and we think when they say they're up to it, they are up to it.

1710

**Mr Kormos:** Thank you, parliamentary assistant.

Chair, if I may put a couple of questions to the fire marshal on this.

First, I'd like to ask the fire marshal — I think it's clear that he was part of the group that worked with the ministry in developing Bill 84, and that's no criticism of him, but that's part one of his roles as a civil servant. I would ask the fire marshal if he was aware or was party to the proposal that resulted in the amendments on sub-sections (2), (3) and (4).

**Mr Bob Wood:** I don't think it's up to the fire marshal to get into how government policy is determined.

**Mr Kormos:** Okay, I'll not ask him that. If I can, then, ask the fire marshal what he understood the rationale for (2), (3) and (4) to be.

**Mr Bob Wood:** No, he's not going to get into that sort of question.

**Mr Kormos:** You can't fire him, so you'll just gag him. The fire marshal wasn't born yesterday; he ain't no average dummy; a wink is as good as a nod to this fire marshal. Okay. This is getting fascinating. I wanted to speed this process up, but I see we're reaching one of those impasses. Some people are starting to roll their eyes, but by God, impasses happen. Things have been coming along quite nicely.

To the fire marshal: Is the fire marshal aware of any communities that have requested the power to create more than one fire department within their municipalities?

**The Chair:** You have to move over, Mr Moyle. You'll have to move up to the microphone.

**Mr Bob Wood:** I'm satisfied that you answer that question.

**Mr Moyle:** Yes, there has been a request in the Kingston area. Also, I live in King township, and King township for many years has had three separate fire departments.

**Mr Kormos:** What would be the desired effect by a community having more than one fire department? What's the purpose being achieved there?

**Mr Moyle:** When you're dealing with volunteers, there's a strong community identity within the volunteer community, in volunteer fire departments. I was involved in an amalgamation of a volunteer fire department. I think there are two things: It keeps the identity of the volunteer community, and it can also act as a transitional model at times. If you're going to an amalgamated system, you may want some time. I think in that particular case it could be of some value.

**Mr Kormos:** So this is contemplating amalgamations.

**Mr Moyle:** Not necessarily, because we have a model now that's been in existence for many years where they have had three separate fire departments, like Nobleton, King City and Schomberg. They kind of thrive on that local identity and it seems to work well in that particular community.

**Mr Kormos:** So you're saying the status quo permits a municipality to have more than one fire department in name?

**Mr Moyle:** They have three separate fire chiefs and three separate fire departments.

**Mr Kormos:** These are volunteer fire departments?

**Mr Moyle:** Yes.

**Mr Kormos:** So there wouldn't be any quarrel in those circumstances with the prospect of management versus collective bargaining, because you're not dealing with the collective bargaining unit, are you?

**Mr Moyle:** They have their own associations.

**Mr Kormos:** Yes, and we heard from them when they were here. But you're not dealing with a collective bargaining unit in that instance.

**Mr Moyle:** Not in the same context you would with the firefighter associations and full-time firefighters. Of course not.

**Mr Kormos:** Do you know why subsection (3) —

**The Chair:** Excuse me, Mr Kormos, this is not a trial. I thought he was there for information. In effect, you're cross-examining the fire marshal.

**Mr Kormos:** I thought he and I were getting along real good.

**The Chair:** You're not doing it badly, but you are cross-examining him.

**Mr Kormos:** Do you call that cross-examination?

**The Chair:** I call that cross-examination, because every answer is eliciting a new question.

**Mr Kormos:** Boy, if I ever got really turned on you'd hit the roof.

**Mr Ramsay:** Let's defer to Mr Guzzo.

**The Chair:** I'd ask you to wind it up.

**Mr Kormos:** Do you know why they wouldn't have simply identified volunteer fire departments as being capable of — there being volunteer fire departments in a municipality, as compared to including obviously — what do you call it when they're blended, when you've got volunteers with professionals?

**Mr Moyle:** Composites.

**Mr Kormos:** Composites, yeah — why they would only exclude full-time? Why wouldn't they just say in the legislation, "A municipality can have more than one volunteer fire department"?

**Mr Moyle:** I guess that's a matter of government policy decision on that, but as I said earlier, I think this pertains very much to volunteers and their identity and possibly some kind of transitional model. That's all I see in that, quite frankly.

**Mr Kormos:** Down where I come from, we've got the Thorold south volunteer fire department and they're from Thorold south; and then we've got the guys over on the west side; and then we've got the Port Robinson fire department, all in the city of Thorold. Down in Welland, we've got Stop 19, we've got the Crowland firefighters and they have various stations. Heck, we've been doing that for a long time, so I didn't think that was a difficult proposition.

Thank you kindly. I'm sorry the parliamentary assistant was so tough with you in terms of trying to dummy you up. Maybe we'll run into each other some time after this place shuts down, some time after this sitting.

**Mr Ramsay:** I don't know why it's so difficult to get the information on this committee, that you've got to go into, as the Chair has said, almost a cross-examination of a government official to try to get a simple answer of what is the rationale for an amendment.

It seems like through a series of questions now, there may be one sinister and one not-so-sinister reason why this is here. The sinister one might be, as I said earlier, that a municipality might have a privatized fire department working in a dense urban centre of its municipality and may, for some of its other areas, decide to use volunteers. That may be one reason.

The other may be, as the fire marshal had stated, the not-so-sinister one, that really, with all the amalgamations that are going to be shoved down people's throats here by the Harris government in Ontario, if you've got an amalgamation of say, nine or 10 rural townships, each being 36 square miles large, it would not be practical to somehow amalgamate all those fire departments. You'd still want, as the fire marshal said, some local identity. You've still got a group of volunteers having to service 48 miles of road, for instance, as is the case in the township that I live in, and probably you'd want to keep that fire department intact, yet it would be under the umbrella of a new, restructured municipality.

I don't know why that's so difficult to state, and why we didn't get that information to begin with, but it would be helpful to all the committee members if the parliamentary assistant was more forthcoming as to the rationale behind these amendments.

**The Chair:** Any further comment?

**Mr Kormos:** Yes, Chair, please. We're getting close, obviously to voting on the government amendment. I'm not going to support the amendment.

On this particular one, I wanted to find out what the government had in mind. I have no quarrel taking at face value what the fire marshal tells me, but then I reflect on my communities and I say, heck — because I mentioned the Stop 19 volunteer fire department, the Crowland fire department down there in the south end of King Street, the Port Robinson volunteer department, the Thorold south. Without establishing separate fire departments, these have maintained their very unique and distinct identities, and Crowland doesn't even exist any more as a municipality. I was born in Crowland; that's down in the south end, south of Ontario Road. Then, east of Crowland Avenue was the new immigrant, ethnic and industrial — still is — part of town.

1720

I meet often with these volunteer firefighters and with their professional counterparts, and quite frankly there's almost some of the same identification on the part of the professionals with their traditional community. As matter of fact, Chair, I used to joke, when Bob Rae was introducing his casino legislation, that Bob Rae thinks he's introducing gambling to Ontario, but obviously he's never been at a Saturday night stag down at the Crowland volunteer firehall. Bob didn't find it funny; neither do you. But the guys in Crowland thought it was good for a chuckle.

We were getting along so well this afternoon. I feel like the dentist when the novocaine hasn't gone far



enough down into the nerve and you're drilling and all of a sudden Mr Wood yelps out in pain, arms a-flailing because we hit a nerve. His reaction to some pretty innocent questions has bothered me — not that he had the reaction; I guess I'm quite pleased.

There's something going on here; there's more here than meets the eye. Whether it has to do with mergers and forced amalgamations of communities, whether it's very Toronto-specific, because clearly Metro Toronto, soon to be megacity Toronto, is the largest single group of communities — and the fact that it comes as an amendment means that it was an afterthought. It wasn't something that was contemplated in the original bill.

I accept the fire marshal's explanation of a scenario wherein the practice might be relatively benign, where there's no evil intended. If that were the case, then the amendment would simply say that where you have volunteer fire departments, you can establish more than one volunteer fire department in a municipality.

I accept the fire marshal's explanation and I accept cases where it might be legitimate. Then simply say, "You can have more than one volunteer fire department, each with its own chief." God bless. Let there be 100 chiefs in volunteer fire departments, because you're not dealing with the same concerns that professional firefighters are when you're seeing a bill that wants to undermine the strength of the collective bargaining unit with professional firefighters.

This amendment has an aroma to it that at the very least speaks of decay, if not outright irreversible rot.

I'm going to be voting against the amendment. Then I dearly want a chance to speak to section 5, as amended, if indeed the motion passes.

**The Chair:** Are there any further comments or questions in regard to the proposed amendment by Mr Wood? If not, I'll put the question.

**Mr Kormos:** Recorded vote.

#### Ayes

Doyle, Guzzo, Klees, Leadston, Newman, Parker, Ross, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** The motion is carried.

We are now considering section 5, as amended. Any comments or questions in regard to section 5, as amended?

**Mr Ramsay:** It's very sad that we're now at the point in time where, as a committee, we're to consider voting on section 5 as a complete section, because it gave an opportunity for government members to really rethink the whole idea about privatizing fire suppression services in this province. Through a series of amendments that both critics had presented, there was an opportunity to rethink this, especially fine-tuning it down to the point where a few government members previously had stated they would support such an amendment.

It really shows that this process, up to this point, in dealing with the privatization, where we went out and listened to people, we collected the views of citizens right across the province, was really starting to have an effect.

People were starting to rethink their positions and this committee was functioning the way a committee should function in not having its mind made up before hearings, but actually went out with an open mind.

It appeared that a couple of government members who had done so, had listened and were prepared to act on that advice, are now gone. We find ourselves now without that voice on the government side, and the government representation now has been fully restacked with backbenchers who will tow the government line. That's really a sad day for democracy and I guess this is our last opportunity for these members to think again about this issue.

**Mr Kormos:** This is a weird bill. Let's take a look at section 5, because it's mandatory. It says, "A fire department shall provide fire suppression services and may provide other fire protection services...."

That forces us back to what we know are the definitions. Fire protection services are that broad range of services. So a fire department shall provide fire suppression. You'll recall that when I talked about subsection 3(2), where you've got the agreements in the areas without municipal organization, "the establishment of a fire department" per se is discretionary, and so is community fire safety or a community fire safety team.

In subsection (2) it's apparently not compulsory for a municipality to have a fire department, and that was confirmed earlier when we talked about those areas. But if it has a fire department, it appears that the only requirement for the fire department is to provide fire suppression and not the other things: "may provide other fire protection services."

I think what we've got here once again is either just bad drafting or yet another open door for privatized services. What's interesting is that some of the government members, even Ron Johnson, who got fired of course as Vice-Chair because he was friendly to firefighters, were suggesting, "Would it be okay if a non-firefighter provided public education and did work in fire prevention?"

It was argued in response that no, those functions should be no more in the realm of privatized services than any other because of the importance of having them closely integrated with other fire protection services. So everything other than fire suppression does not have to be done by a fire department, which means that when it's privatized, it doesn't even have to be done through privatized firefighting services.

That means fire prevention, fire safety education, communication, training of persons, rescue and emergency services and the delivery of all those services don't have to be performed by a fire department pursuant to section 5. The only thing a fire department has, even a privatized fire department, is the need to provide fire suppression.

We're looking at privatization stage two, where the bill is going to permit the privatization of a fire department, which means that a privatized company will provide fire suppression and then other rinky-dink operators will be providing the rescue and emergency services. That's kind of interesting. I suppose that includes ambulance services. So all this stuff is meshing; it's all coming together.

The parliamentary assistant — I saw your eyebrows raise and you eyes roll just a little bit, Chair, when he mentioned Bill 26.

**The Chair:** Excuse me, Mr Kormos. I did think we had an agreement that my facial expression would not be entered into the record, as I'm an independent person. Indicating some approval or disapproval of statements made by yourself puts me in a very difficult position, I have to correct you, and I would just suggest that I am independent. I try to appear neutral. I'm sorry I don't have the poker face you require. However, would you leave my facial expressions out of the record. I would really appreciate it.

1730

**Mr Kormos:** The Chair grimaces while addressing the member for Welland-Thorold.

**Mr Ramsay:** It was a grimace. It was definitely a grimace.

**Mr Kormos:** Chair, it wasn't in response to anything I said. That's the problem with body language. Everybody knows when you cross your arms like this you're being defensive and unresponsive.

It happened to be when the parliamentary assistant said Bill 26. Maybe you were thinking about something that had nothing to do with Bill 26, in which case it was entirely inappropriate to suggest that you raised eyebrows and rolled eyes in response to the parliamentary assistant's mentioning Bill 26.

Gosh, lighten up a little, Chair. I'm just making a simple observation. My eyes rolled too when the PA mentioned Bill 26 because I thought the government was going to steer so far of that. Everybody knows that was the cornerstone and this is the first course of bricks on top of the foundation.

*Interjection.*

**Mr Kormos:** That's right, and this was no baby found in the bulrushes, let me tell you. There's no Immaculate Conception here. We know exactly what's been taking place before this thing was given birth to.

This section 5, again, is pretty devious stuff and I'm not going to touch it. I just ain't going to come even close to endorsing it; I'm going to oppose it and I'm going to vote against it. I'd be pleased to hear government members rebut my comments and indicate where my fears are groundless. Until I'm assured of that, I'm going to be afraid for communities, for firefighters, for the safety of our families and our neighbours and our seniors and kids, the same sorts of kids we saw in committees.

**The Chair:** Thank you, Mr Kormos. Any further discussions or comments in regard to the question? If not, shall section 5, as amended, carry? A recorded vote is required.

**Ayes**

Doyle, Guzzo, Klees, Leadston, Newman, Parker, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** Section 5, as amended, has carried.

Actually, Mr Klees, I had asked you for a motion before.

## ELECTION OF VICE-CHAIR

**Mr Klees:** I'm more than happy to take this opportunity to move the appointment of my colleague Mr Doug Rollins as Vice-Chair of this committee.

**The Chair:** Mr Rollins is not available at this time. In any event, we have a motion appointing Doug Rollins as Vice-Chair. Is there any discussion?

**Mr Kormos:** Are there going to be nominating speeches here? We should know something about the member before we're called upon to vote for him.

**Mr Bob Wood:** He's so good it's not needed.

**The Chair:** I can recommended him highly.

**Mr Kormos:** Oh, wait a minute.

**Mr Ramsay:** Can there be other nominations from the floor?

**Mr Kormos:** Chair, if I may, just so people understand: These are not real elected positions. What happens is that there is a deal. It happened with the last government too and it happened with the government before that.

**The Chair:** I think it's a tradition rather than a deal.

**Mr Kormos:** No, no. I've been around here a little longer than you. Trust me, Chair, they're deals and what happens —

**Mr Klees:** This is a good deal.

**Mr Kormos:** No, no.

**Mr Ramsay:** It is for the recipient.

**Mr Kormos:** That's right. To be fair, I'm not being critical, because everybody played the game. It was during the 1987 government, and 1985-86 might have been part and parcel of it in terms of accord, but these are the perks, these are the extra salaries people get. As I said, being a Vice-Chair is such an onerous responsibility. It is so demanding it just sucks the lifeblood out of you and you leave this place exhausted, barely able to crawl into your taxicab.

Again, people have been known to have anxiety attacks, serious nervous problems as a result of being Vice-Chair. People have been known to have quit within a matter of mere hours because the pressure is so intense. That \$4,000-plus a year simply doesn't compensate for having to sit up at that end of the table. So what happened was that deals were struck and opposition members bought into it because governments have to pay off as many of their backbenchers as possible to keep them in line and happy. If you don't have something to take away, then there's no carrot or no stick effect, so governments use Vice-Chairs and things like that for the carrotting, for the sticking, and —

**Mr Ramsay:** Do they?

**Mr Kormos:** Oh, yes. We saw some stick-handling last week.

It's a matter of distributing more money among obedient government members. But so that the opposition doesn't get overly ornery, they buy in. For instance, the deal is that the Chair of the government agencies committee is an opposition member, a third-party member, so there's an election for that person too, but the government members are whipped to, say, vote for the third-party member because that's all part of the deal. Then there's one the official opposition has as well. They spread it around a little bit. So that's why, to move this



and to vote, when you vote on it, it makes it look like it's democratic; it makes it look like the committee is genuinely electing a Vice-Chair. The fact is that those elections are shams, have been throughout the course of two years of this government, were throughout the course of five years of the last government and have nothing to do with elections. I'm pleased to see that Mr Rollins has begun the ascent. I wish him well, Chair.

**Mr Ramsay:** The ascent to the trough.

**Mr Kormos:** I don't know why they don't just get down to brass tacks, all these House leaders, and acknowledge that to purport to elect a Chair is the phoniest scam to hit this place since the \$2,000 vacuum cleaners that are being sold door to door and then selling the paper off to the finance companies.

I think I will abstain from voting for that, because it's just a scam. It's a way of getting people at the trough and it's also a way of keeping people in line, because once you've got that \$4,500 you don't want to lose it. I understand why people go down for the count, why they bite the canvas. But to do it for a crummy \$4,000 a year or even, quite frankly, at the end of the day \$8,000 or \$8,500 a year I find particularly tragic.

Having said that —

**Mr Guzzo:** But you justify a PA in there. A PA you can handle.

**Mr Kormos:** A PA? No, they make \$11,000 or \$11,500 plus an extra staff person.

**Mr Guzzo:** You're telling us your price now. Bob Rae couldn't afford you.

**Mr Kormos:** That's right. Again the process is one that is yes, sordid and unpleasant and so typical of Queen's Park.

*Interjection.*

**The Chair:** I had understood that you acted as Chair during the last government. Just for the purpose of the record, I think we —

*Interjection.*

**Mr Ramsay:** Of course this is the neutral Chair.

**Mr Kormos:** It was one of the finest pieces of legislation —

**The Chair:** I know Mr Kormos would like all the facts to be out.

**Mr Kormos:** — which your government repealed by virtue of Bill 7 and put workers under attack, put collective bargaining units under attack, put health and safety very much at risk in the workplace and brought scabs back on to the landscape of Ontario.

**The Chair:** Thank you, Mr Kormos.

**Mr Kormos:** Scabs is what this government endorses.

**The Chair:** We are dealing with a motion to elect Mr —

**Mr Kormos:** That's right, but you did raise my chairmanship with the committee that stick-handled —

**The Chair:** Well, I just wanted to make sure everyone was aware of that.

**Mr Kormos:** — Bill 40 through the Legislature, Chair, and there you go.

**The Chair:** Thank you, Mr Kormos. We have a motion on the floor. All those in favour? All those against? Carried.

Mr Doug Rollins is now Vice-Chair of this committee.

We are now proceeding to a government motion, being item 12 of your amendments, to amend section 6. Mr Wood.

1740

**Mr Bob Wood:** I move that subsections 6(1) and (2) of the bill be struck out and the following substituted:

"Fire chief, municipalities

"6(1) If a fire department is established for the whole or a part of a municipality or for more than one municipality, the council of the municipality or the councils of the municipalities, as the case may be, shall appoint a fire chief for the fire department.

"Same

"(2) The council of a municipality or the councils of two or more municipalities may appoint one fire chief for two or more fire departments."

These basically are sister amendments, or brother amendments as you may prefer, to the section 5 amendments.

**Mr Kormos:** Can the PA, because he's deleted "shall appoint a fire chief for the purposes of this act" — "shall appoint a fire chief for the fire department" and "the councils...may appoint one fire chief for two or more fire departments" — the original subsection (1) is contained in the new subsection (1), but the new subsection (1) simply adds the capacity to have more than one fire department in one municipality. Otherwise everything is the same.

**Mr Bob Wood:** This flows from the amendment to section 5.

**The Chair:** You still have the floor, Mr Kormos.

**Mr Kormos:** Thank you kindly, Chair. I won't be long on this because the same comments apply here as apply to the amendments to section 5. The PA was candid about this being a complement to the amendments to section 5. I still find that a very odious proposition and will not be supporting the amendment for that reason, but look forward to being able to speak to section 6, either as amended, if the amendment passes, or otherwise, for a whole lot of reasons.

**The Chair:** Any further discussion in regard to the amendment of Mr Wood? If not, shall the amendment carry? All those in favour? A recorded vote.

**Ayes**

Doyle, Guzzo, Klees, Leadston, Newman, Parker, Ross, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** The amendment is carried. We are now dealing with section 6, as amended.

**Mr Kormos:** The PA may not be aware of this because he of course was only able to join us — he replaced the fired Mr Carr, who was the PA. In subsection (3):

"A fire chief is the person who is ultimately responsible to the council of a municipality that appointed him or her for the delivery of fire protection services."

I've got to say that quite frankly on its face strikes me as an appropriate provision.

You know that some of the municipalities were before the committee, if I'm correct — if I'm not correct in this regard, say so — talking about, "Oh, this denies the new types of structures where you've got CAOs and where you've got other individuals in the corporate structure of a municipality who are the people who report directly to council."

I think it's important that a fire chief report directly to the council, that there be more direct contact with a council rather than less. Was there any consideration of these various concerns that were raised, particularly by municipalities, and to what end? Obviously there isn't an amendment changing subsection (3). Or does the parliamentary assistant think the language of subsection (3) still permits "ultimately responsible to the council"? Responsibility is one thing, but the chain of command is another in terms of whom you have to report to. Does this still accommodate those municipalities that say, "Oh no, we want a fire chief to do his or her reporting to," let's say, "the CAO"?

**Mr Bob Wood:** We think a minimum is what's set out in subsection (3). In other words, we think that's necessary for the proper governance of a fire department. We think we have answered the concerns about flexibility which have been expressed by many municipalities in the various other changes, the increased management exclusions and so on. We think the flexibility is there but the buck has to stop somewhere, and that's the reason for subsection (3).

**Mr Kormos:** We'd better take a look at Sections 14, 19 and 20, because we're talking about the delegation powers there. That isn't what I had in mind. That's strange.

One of the practices, to the parliamentary assistant, that I'm familiar with is that — this is in response to the sense of urgency on the part of this government to make fire departments top-heavy with management. Granted, we had a whole lot presentations, including the majority of fire departments from Niagara region, where the fire chiefs came and endorsed Bill 84 and talked about the need for more management positions, but they came from municipalities most of which hadn't even used the power to appoint deputy chiefs. Just in response, I wanted to check sections 14, 19 and 20 really fast because none of them deal with this.

One of the concerns raised was that if a chief is out of town, then nobody is the chief. Down where I come from, and I think in other parts of the province as well, any number of firefighters are appointed chief for a day. Well, they are there, and when we listened to the people from Windsor and Peterborough and Toronto as well we heard about team approaches. There are a whole lot of people in these fire departments who can readily assume the role of chief as acting chief or acting deputy chief. It hasn't got a whole lot to do with this section. Well, it does a little bit because the section focuses on powers of delegation and on the person to whom the chief is responsible, but is there any statutory provision, because that's been a practice for a good chunk of time, that's required to give chiefs the power to appoint acting chiefs in their absence?

**Mr Bob Wood:** We feel that the more flexible management structure this bill envisages is going to give them the means to provide for the normal procedures you would have in any organization where officers are absent. By that I mean chiefs or whoever.

**Mr Kormos:** Thank you.

**The Chair:** We are dealing with section 6, as amended.

1750

**Mr Kormos:** I wanted to hear comments from government members on section 6 of the bill, especially on the amendments that were moved by the government that create this wacky proposition where a municipality can create more than one fire department. I say it is wacky, it's weird and I just can't figure it out. If it is restricted to volunteer fire departments, why didn't they say so?

Under those circumstances I've got to tell you that I can't support section 6. With respect to both sections 5 and 6, I think the government has been less than straightforward. They've been less than frank. I'm concerned about what they've got in mind with multiple fire departments within the municipality and I want to indicate I'm going to be voting against it.

Again, I'd be pleased to hear from government members who would explain to this committee why they're taking the position they are. I'd be eager to hear them put on record, if they're going to be supporting sections 5 and 6 — here section 6 is amended — as to why.

**The Chair:** Is there any further discussion before I put the section? If not, all those in favour of the section? A recorded vote is requested. Shall section 6, as amended, carry?

**Ayes**

Doyle, Guzzo, Klees, Leadston, Parker, Ross, Newman, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** The section is passed.

For convenience, sections 7 to 13 are not amended, so I would ask for discussion. We can break it down if you wish, but I would suggest that we might deal with them as a group unless there is objection. I am therefore suggesting that we deal with sections 7 to 13 of the act, inclusive, as there are no amendments.

**Mr Kormos:** Up to but excluding: My problem with that, and I would agree to —

**The Chair:** Just tell me what you agree to.

**Mr Kormos:** Hold on. I've got to lay a foundation here. Just as Bill 26 is the foundation for private fire-fighting services and this is the first course of brick, I want to lay the foundation for my proposition.

Section 7 belongs to part II. Part III is "Fire Marshal," sections 8 through 11 inclusive, and then part IV, beginning with section 12, is "Fire Code." If we're going to break these down for the purpose of discussion, why don't we break them down according to parts and then go back and vote, for instance, on section 7, but go back and vote on sections 8, 9 and 10? That's my proposition.



**The Chair:** We don't have unanimous consent for that. I would therefore — we're dealing with section 7.

**Mr Kormos:** You mean we're going to do them one at a time?

**Mr Bob Wood:** Mr Chairman, I think there may have been some misunderstanding here. I think there might be some interest in unanimous consent for Mr Kormos's proposal.

**Mr Bud Wildman (Algoma):** I think Mr Kormos suggested that we deal with section 7, then 8 to 11 as a group, then 11 to 13 after that.

**Mr Kormos:** But, Mr Wildman, the Chair indicated there wasn't unanimous consent.

**The Chair:** We're dealing with section 7.

**Mr Kormos:** That's the next section, and then we can deal with 8 to 11.

If that was the suggestion, I will try to suck up because they're going to want to try to get this thing pushed through. Boy, oh boy.

**The Chair:** We are dealing with section 7. Is there any discussion, any questions?

**Mr Kormos:** I'd like the PA to elaborate on this and talk about who are contemplated as coordinators and what are contemplated as other duties assigned by the fire marshal very briefly, please.

**Mr Bob Wood:** I'm sorry. I managed to get interrupted as you were saying that.

**Mr Kormos:** In section 7, fair enough in terms of appointing fire coordinators, but I'm interested in "perform such other duties as may be assigned." That's primarily what I was interested in. What's being contemplated?

**Mr Bob Wood:** This of course is the same as section 3.2 of the Fire Marshals Act. To my knowledge there's no change in the current practice being contemplated, so I think the answer is, no change is contemplated at the moment.

**Mr Kormos:** Thank you.

**The Chair:** Is there any further discussion? Is there any further discussion in regard to section 7? If not, shall section 7 carry? All those in favour? All those against? The section carries.

We are now dealing, at Mr Kormos's suggestion, with sections 8 to 11, inclusive. Is there any discussion?

**Mr Kormos:** Granted, we're dealing with these in a sort of omnibus way, part III. Bill 26 was an omnibus bill as well.

We talked earlier about the fire marshal's power, and when we look back at subsection 2(7) it says, "The fire marshal may monitor and review the fire protection services provided by municipalities...." We expressed concern about that because it was not a mandatory role. This is empowerment which confirms our concern, quite frankly, about the discretionary role here: "The fire marshal has the power to monitor, review and advise."

This has been raised from day one, from the very first day when the fire marshal was part of the introductory addresses to the committee on the bill. If the role is

discretionary — "the fire marshal may," not "the fire marshal shall" — is the fire marshal then going to be restricted by or is the breath of his monitoring going to be a matter of funding? What's going to determine when the fire marshal shall monitor and review and advise? I think more than a few of us are having a problem with that.

**Mr Bob Wood:** As you know, this is a new responsibility being given to the fire marshal. What it really comes down to is that the fire marshal is going to do that pursuant to government policy. Certainly the policy of this government is that we want and are going to do all we can to get adequate fire protection throughout the province.

If it turns out that the change is not as forceful as it should be, certainly at another time we can look at it again, but we think this will be adequate to ensure the fire protection everybody needs. We don't think a stronger section is needed. However, if experience shows we're wrong, obviously we'll look at it again.

**Mr Kormos:** Thank you.

**The Chair:** Are there any further questions or comments? If not, I shall put the question.

**Mr Kormos:** Mr Chair.

**The Chair:** Yes, Mr Kormos, you wanted a recorded vote?

**Mr Kormos:** No, no. I'm just going to indicate that this part, part III, has not been a major stumbling block, I think, for any of the participants. Again, that was the one area of concern I had, how the fire marshal is going to do that job when it's discretionary and when there's no guarantee of funding.

I'm not opposed to any of those sections in part III. They're not what the concern is about. In and of themselves, they're relatively innocuous.

I'd like a recorded vote. If the Chair is going to go through sections 8 through 11, I would like a recorded vote on each section, but I'd like to be relieved of having to ask for one. I don't anticipate debating any of those sections as you call them for vote.

**The Chair:** Are you suggesting the vote will be the same for all the sections?

**Mr Kormos:** Yes.

**The Chair:** Okay. Perhaps I'll just put section 8 and then ask if the vote is the same. Shall section 8 carry?

**Ayes**

Doyle, Guzzo, Klees, Kormos, Leadston, Newman, Parker, Ramsay, Ross, Bob Wood.

**The Chair:** Shall the vote be the same for sections 9 to 11, inclusive?

**Mr Kormos:** Same vote.

**The Chair:** Carried.

There are two more sections that we might complete before we rise today: sections 12 and 13.

**Mr Ramsay:** The House is no longer sitting.

**The Chair:** Okay. It would seem that the House has risen. We are adjourned till 3:30 tomorrow afternoon.  
*The committee adjourned at 1800.*

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### STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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**Vice-Chair / Vice-Président:** (vacant)

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Mr Bruce Crozier (Essex South / -Sud L)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Douglas B. Ford (Etobicoke-Humber PC)  
Mr Garry J. Guzzo (Ottawa-Rideau PC)  
Mr Peter Kormos (Welland-Thorold ND)  
Mr Gerry Martiniuk (Cambridge PC)  
Mr David Ramsay (Timiskaming L)  
Mr Douglas E.J. Rollins (Quinte PC)  
Mrs Lillian Ross (Hamilton West / -Ouest PC)  
Mr Bob Wood (London South / -Sud PC)  
Mr Terence H. Young (Halton Centre / -Centre PC)

#### **Substitutions present / Membres remplaçants présents:**

Mr Ed Doyle (Wentworth East / -Est PC)  
Mr Frank Klees (York-Mackenzie PC)  
Mr Gary L. Leadston (Kitchener-Wilmot PC)  
Mr Dan Newman (Scarborough Centre / -Centre PC)  
Mr John L. Parker (York East / -Est PC)  
Mr Trevor Pettit (Hamilton Mountain PC)

#### **Also taking part / Autres participants et participantes**

Mr Bud Wildman (Algoma ND)  
Mr Bernie Moyle, fire marshal, Ministry of the Solicitor General

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Ms Sibylle Filion, legislative counsel





# Legislative Assembly of Ontario

First Session, 36th Parliament

# Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

## Official Report of Debates (Hansard)

Tuesday 29 April 1997

## Journal des débats (Hansard)

Mardi 29 avril 1997

### Standing committee on administration of justice

Fire Protection and  
Prevention Act, 1996

### Comité permanent de l'administration de la justice

Loi de 1996 sur la prévention  
et la protection contre l'incendie

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LEGISLATIVE ASSEMBLY OF ONTARIO  
**STANDING COMMITTEE ON  
 ADMINISTRATION OF JUSTICE**

Tuesday 29 April 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
**COMITÉ PERMANENT DE  
 L'ADMINISTRATION DE LA JUSTICE**

Mardi 29 avril 1997

*The committee met at 1531 in room 228.*

**FIRE PROTECTION AND  
 PREVENTION ACT, 1996  
 LOI DE 1996 SUR LA PRÉVENTION  
 ET LA PROTECTION CONTRE L'INCENDIE**

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / *Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.*

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen, members of the committee. This is a continuation of the administration of justice committee's consideration of Bill 84. We were last dealing with section 8 of Bill 84. I don't believe anyone had the floor, but I will ask the question: Is there any discussion or questions in regard to section 12?

**Mr Peter Kormos (Welland-Thorold):** I'm sorry, we've completed part III. Is that correct, Chair?

**The Chair:** We last dealt with and passed section 11, as amended. We did not deal with section 12. So we are dealing with section 12 of the act, which is part IV.

**Mr David Ramsay (Timiskaming):** I understand that the government may be bringing in some further recommendations later on this year based upon coroners' inquests over the last couple of years. If that's my understanding, I'd be quite prepared to let this part IV pass.

**Mr Kormos:** As well, part IV is not contentious and we will be supporting it.

**The Chair:** Okay. I'll ask the question then. Shall section 12, being part IV, carry? All those in favour? All those against? The section and part are carried.

We are now dealing with section 13. There are no proposed amendments by any party. That's the first section of part V.

**Mr Kormos:** Can I suggest that we could probably deal with part V in an omnibus vote, in terms of passing part V, if that were acceptable?

**The Chair:** Unfortunately, I believe we have a government amendment to section 14.

**Mr Kormos:** Being well aware of that.

**The Chair:** Well, could we deal with 13? I'll try to combine as many as possible, Mr Kormos. You're quite right.

I will deal with section 13. Is there any discussion in regard to section 13? If not, I'll call the question. All those in favour? All those against? That section is carried.

We will now deal with a proposed amendment to section 14.

**Mr Bob Wood (London South):** I move that section 14 of the bill be amended by adding the following subsection:

"Same

"(3.1) A person who enters on adjacent land or premises under subsection (3) may exercise any of the powers mentioned in subsection (2) on or with respect to the adjacent land or premises."

This gives an investigator the power to conduct an investigation of a fire on land adjacent to where the fire occurred, such as, for example, where a burnt building falls on a neighbouring land.

**The Chair:** Is there any discussion in regard to the proposed amendment? If not, I will put the amendment. Shall the amendment carry? All those in favour? All those against? The amendment carries.

**Mr Kormos:** You are turning into Bert Johnson.

**The Chair:** I don't mean to. If I may deal with all of part V now, I will deal with section 14, as amended, and sections 15, 16, 17, as unamended. Is there any discussion in regard to sections 14 to 17, inclusive?

**Mr Kormos:** Similarly, these sections which constitute part V are not contentious and we will be supporting this.

**The Chair:** Any further discussion? If not, I'll put sections 14 to 17. All those in favour? All those against? Carried.

We are now dealing with section 18. There are no proposed amendments. That's the first section of part VI. Is there any discussion in regard to section 18? If not, I'll put the question. Shall section 18 carry? All those in favour? All those against? Section 18 carries.

We have two government amendments proposed to section 19.

**Mr Bob Wood:** I move that subsection 19(3) of the bill be struck out and the following substituted:

"Time of entry

"(3) The power to enter and inspect land and premises without a warrant may be exercised at all reasonable times."

This amendment deletes the reference to specific hours in the legislation and replaces it with "all reasonable times." It allows flexibility and is consistent with the proposed Tenant Protection Act.

**Mr Kormos:** I should indicate very quickly that I have concerns about this, especially in view of the next amendment which is the deletion of subsection (4), because these are warrantless searches. With respect, understanding the motive here, that is, to permit the fire marshal or his or her designate to fulfil their duties in terms of protecting public safety, I also submit that

warrantless entries are dangerous intrusions on civil rights. I will be opposing the amendment.

**Mr Ramsay:** I guess actually the proper place would be the next one because that's the point I really want to address, so I'll wait till the next amendment.

**Mr Bob Wood:** Might I speak to that?

**The Chair:** No. You're speaking to it next time. We're dealing with item 14 that you have already proposed. Shall the amendment carry?

**Mr Bob Wood:** I don't have a right to speak to this?

**The Chair:** Mr Ramsay was going to speak to the second part.

**Mr Bob Wood:** Well, you'll have to do without my comments, Peter. Sorry about that. I think I do, but anyway.

**The Chair:** All those in favour of the amendment? All those against? The amendment carries.

We are dealing with item 15.

**Mr Bob Wood:** I move that subsection 19(4) of the bill be struck out.

**The Chair:** Now, Mr Wood, this is your opportunity to speak to that amendment.

**Mr Bob Wood:** I think I did have an opportunity before but I didn't press the point. One is always concerned about warrantless searches, and we do not believe that these are going to be abused. If indeed we turn out to be wrong about that, It's an issue that should be addressed again.

**Mr Ramsay:** It really is very curious that you put the protection in the bill to begin with, as I think it should be. I think the amendment we just passed, "reasonable time," is reasonable with this safeguard, and I think the original constructors of the bill designed it that way for that safeguard. Now to delete the safeguard for these inspections — and you're just talking about fire inspections; you're not talking about during the act of fire suppression, when obviously you've got to get into a neighbouring property, but this is just for inspection.

1540

To now delete, "An inspector shall not use force to enter and inspect lands or premises" — we are in a law-abiding country, and if for government purposes such as fire inspections it is deemed important to go into certain premises, then certainly the fire marshal could go to the court and get a warrant if there was some sort of resistance to this. It would seem to me there is not much resistance. Most people, I would say the vast number of Ontarians, cooperate with the local fire department in facilitating fire inspection, because it's obviously in your best interests to do that. Even so, if there is resistance, there are mechanisms available to permit that. To just take that out, that you could start to have people using force to go in and inspect premises, I think that's really starting to move the way Ontario is organized into an undemocratic place. That's a very serious power you would be granting to fire departments. You had the caution there with the original drafting of the bill, and to take that out I think is reckless. You really have to reconsider that.

**Mr Kormos:** The previous amendment to subsection (3) causes me concern. This one I believe is repugnant to

any sense of civil liberties. Section 20 provides for the power to obtain a warrant from a justice of the peace with a very low threshold, with a very low standard. Justices of the peace are readily available in the province now. I think this is a very dangerous amendment and I oppose it. It contradicts our heritage of law and individual rights and probably goes back to contradicting some very fundamental standards that were established by the Magna Carta. I think it's a very dangerous provision and I'm going to be asking for a recorded vote on this, sir.

**The Chair:** Thank you. Mr Wood and Mr Ramsay.

**Mr Bob Wood:** Why don't we let Mr Ramsay go first.

**Mr Ramsay:** Thank you. I have a question, Mr Wood. Since there's a fairly simple mechanism for a warrant laid out in section 20 to remedy this — going to a local justice of the peace — why is it necessary to rule out that an inspector cannot use force?

**Mr Bob Wood:** The force contemplated here, I think, is in the nature of pushing open an unlocked or stuck door, which is of course force. I don't think it's contemplated that there will be some kind of confrontation between occupants and those who are exercising this power. If that were to occur, obviously the police would have to be involved. I go back to my comment earlier: We don't think these powers are going to be abused. If indeed we find that they are, This issue would have to be addressed again.

**Mr Kormos:** Just think, if this kind of logic were applied universally, pushing aside a security guard wouldn't constitute an assault.

**Mr Bob Wood:** It may have to be the subject of legislation. Who knows?

**Mr E.J. Douglas Rollins (Quinte):** Does it now, Peter?

**Mr Ramsay:** Just one last plea to the parliamentary assistant. Governments have always said, "I don't really believe this sort of power would be abused," but that's why we have government in place, because many times, unfortunately, whoever these people are, power is abused. That's why we have laws to protect people. I think you're making a big mistake taking this out of the bill.

**The Chair:** Is there any further discussion? If not, I'll put Mr Wood's amendment.

**Mr Kormos:** Recorded vote.

**Ayes**

Doyle, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** The amendment is carried. Is there any discussion in regard to section 19, as amended? I will therefore put the question. Shall section 19, as amended, carry?

**Mr Kormos:** Recorded vote.

**Ayes**

Doyle, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.



**The Chair:** The section, as amended, is carried.

We are now moving to section 20. There are no amendments.

**Mr Kormos:** We're going to be supporting section 20. This is exactly the type of process that is preferable in a democratic country. I note that indeed the standard or the threshold for obtaining a search warrant is a remarkably low one. It's precisely because of the presence of section 20 that we opposed section 19, but we will be supporting section 20.

**Mr Ramsay:** I'd just like to ask the parliamentary assistant why you even need section 20 if you've just taken out subsection 19(4). If you've taken out the preventive measure to the use of force, then how is an inspector ever going to be denied entry to the lands and premises?

**Mr Bob Wood:** Certainly we've reduced the scope where that section can be used. There may be circumstances where that's required and we think the section should indeed stay in.

**Mr Ramsay:** How is this going to work? The inspector could be at a property and come across a locked or stuck door, as you say. As the law is going to be passed now, because we've just made the amendment, the fire inspector could kick the door in. Is this what you anticipate would happen then? This is what you're promoting because you have taken away the use-of-force clause? I'm just wondering what's the purpose. You took out that use-of-force clause.

**Mr Bob Wood:** We think it's wise to leave section 20 in, in case that indeed is required. If there's some form of dispute, that gives a means for a judicial resolution of it.

**Mr Ramsay:** In other words we're allowing the use of discretion by the particular fire inspection officer, whether he or she uses force or goes to the remedy of section 20: going before a justice of the peace.

**Mr Bob Wood:** It gives judicial backup to the powers that are given earlier.

**The Chair:** I'm somewhat confused. Just because you remove the right to use force does not mean you have the right to use force of entry. The common law would surely affect the section, would it not? Are you assuming, Mr Ramsay, that the right of entry implies the use of force?

**Mr Ramsay:** That's what I'm assuming. Obviously the original drafter of this had a concern and it was here originally. I'm not a lawyer, but having that there and now being taken away, it's a concern.

**Mr Bob Wood:** It's a backup to the powers otherwise given.

**Mr Ramsay:** Where's Mr Guzzo when you need him?

**The Chair:** Mr Guzzo's not present, unfortunately.

We are dealing with section 20. I'll put the question. Shall section 20 carry? All those in favour? All those against? The section is carried.

We are proceeding to government amendment 16, amending section 21.

**Mr Bob Wood:** I move that clause 21(1)(d) of the bill be struck out and the following substituted:

"(d) to install and use specified equipment or devices as may be necessary to contain hazardous material on the land or premises and, in the event of a fire, to remove or transport the material."

This is a minor technical amendment to clarify that an inspector may order that material may be removed or transported in the event of a fire but hazardous material may be contained at any time. For example, dangerous chemicals can be contained to prevent a fire from occurring.

**The Chair:** Any discussion? Shall the amendment carry? All those in favour? Against? The amendment is carried.

We are moving to item 17.

**Mr Bob Wood:** I move that clause 21(1)(e) of the bill be amended by striking out "risk" in the fourth line and substituting "undue risk."

This is a minor technical amendment to clarify that an inspector may order that the manufacturing process may be discontinued if it creates an undue risk of fire. It recognizes that some manufacturing processes are inherently dangerous.

**The Chair:** Any discussion? If not, I'll put the amendment. Shall the amendment carry? All those in favour? Carried.

Shall section 21, as amended, carry? All those in favour? Carried.

Shall section 22 carry? All those in favour? Carried.

#### 1550

A government amendment, being item 18, to section 23.

**Mr Bob Wood:** I move that section 23 of the bill be amended by striking out "section 21" in the first line and substituting "subsection 21(1) or (2)."

**The Chair:** Shall that amendment carry? All those in favour? Carried.

Shall section 23, as amended, carry? All those in favour? Carried.

Shall section 24 carry? Carried.

Section 25, there are two amendments, the first being item 19.

**Mr Bob Wood:** I move that subsection 25(1) of the bill be amended by striking out "subsection 21(1), (2) or (3)" in the fourth line and substituting "subsection 21(1) or (2)."

This amendment makes a number of changes dealing with hydro inspections. Without these amendments under this section, these orders would be subject to an inordinate delay caused by unnecessary review by the fire marshal and appeal to the Fire Safety Commission.

An inspector may still lay a charge under the Provincial Offences Act or may seek an order to comply from the Ontario Court (General Division). This restores the practice under the Fire Marshals Act where these appeals were not available.

Also, Ontario Hydro has its own appeal process for its orders and it's not necessary to set up a parallel process by permitting reviews by the fire marshal and appeals to the Fire Safety Commission.

**The Chair:** If there's no discussion, shall the amendment carry? Carried.

Item 20.

**Mr Bob Wood:** I move that subsection 25(3) of the bill be amended by striking out "section 21" in the last line and substituting "subsection 21(1) or (2)."

**The Chair:** Shall the amendment carry? Carried.

Shall section 25, as amended, carry? It is carried.

We are moving to 26 and we have item 21, being an amendment by the government.

**Mr Bob Wood:** I move that subsection 26(1) of the bill be amended by striking out "section 21 or 25" in the third line and substituting "subsection 21(1) or (2) or section 25."

The reasons are the same as the last two.

**The Chair:** Shall the amendment carry? All those in favour? Carried.

Shall section 26, as amended, carry? All those in favour? Carried.

We are moving to section 27. There are no amendments. Shall section 27 carry? Carried.

We are now moving to three amendments proposed by the government, the first one being item 22 regarding section 28.

**Mr Bob Wood:** I move that clause 28(1)(c) of the bill be amended by inserting "subject to subsection (1.1)" at the beginning.

**The Chair:** All those in favour?

**Mr Ramsay:** Is there an explanation?

**Mr Kormos:** One moment. I'm not going to be supporting this because it appears to rely upon the next motion or the next amendment, which creates subsection 28(1.1), which I find repugnant. I'll be opposing this amendment. This amendment really facilitates 28(1.1), which is going to be moved by the government shortly.

**The Chair:** I am proceeding without giving Mr Wood an opportunity to give a full explanation in that most of them are technical. You can always raise it and then he can provide a full explanation, if that's suitable.

**Mr Bob Wood:** I think that's a hint not to give an explanation unless invited. So if the members will invite me, I'll do it. If they don't, I won't.

**Mr Ramsay:** You're invited on this one.

**Mr Bob Wood:** This amendment, together with the following one, confirms that a person who contravenes the labour relations portion of Bill 84 or part IX is not guilty of an offence. This can be done because we're reverting back to certain parts of the Fire Departments Act and the Fire Departments Act did not contain such a provision. It's a return to the status quo under the Fire Departments Act where there's no offence provision for labour relations matters.

**The Chair:** Is there any further discussion in regard to the proposed amendment? If not, all those in favour?

**Mr Kormos:** Recorded vote.

#### Ayes

Doyle, Leadston, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** The amendment is carried. We're moving to item 23.

**Mr Bob Wood:** I move that section 28 of the bill be amended by adding the following subsection:

"Same

"(1.1) A person who contravenes a provision in part IX of this act is not guilty of an offence."

**Mr Kormos:** I reject this entirely. This was brought to the attention of the committee during the course of the hearings. Obviously there were some people who weren't pleased with it and the presenters who made those comments were ones who represented employers who would conceivably, at some point, where they so do decide, be guilty of contravention of the act under part IX. The act takes away some significant bargaining rights from firefighters, and this, had it been permitted to remain or were permitted to remain, would perhaps provide some modest relief for firefighters who were otherwise losing significant rights. I will be opposing this amendment.

**Mr Bob Wood:** This amendment and the previous one confirm that a person who contravenes the labour relations portion of Bill 84 or part IX is not guilty of an offence. This can be done because we're reverting back to certain parts of the Fire Departments Act as discussed.

**The Chair:** All those in favour of the amendment?

**Mr Kormos:** Recorded vote, please.

#### Ayes

Doyle, Leadston, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** The amendment is carried.

We are moving on to item 24.

**Mr Bob Wood:** I move that subsection 28(2) of the bill be struck out and the following substituted:

"Penalty

"(2) An individual convicted of an offence under subsection (1) is liable to,

"(a) in the case of an offence other than one described in clause (b), a fine of not more than \$10,000 or imprisonment for a term of not more than one year, or both; and

"(b) in the case of an offence for contravention of the fire code, a fine of not more than \$25,000 or imprisonment for a term of not more than one year, or both.

"Same

"(2.1) A corporation convicted of an offence under subsection (1) is liable to a fine of not more than \$50,000.

"Offence, director or officer of corporation

"(2.2) A director or officer of a corporation who knows that the corporation is violating or has violated a provision of the fire code is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both."

This amendment restores the fine level of individuals and directors of corporations to \$25,000 for fire code violations; restores what was done in the Fire Marshals Act under section 19(5).

**The Chair:** Is there any discussion? If not, I'll put the amendment. Shall the amendment carry? All those in favour? Carried.

Shall section 28, as amended, and sections 29 and 30 of the act carry? All those in favour? Carried.

We are now proceeding to section 31, and item 25, a proposed amendment by the government.



**Mr Bob Wood:** I move that section 31 of the bill be amended by adding the following subsection:

"No notice required

"(1.1) An application under subsection (1) may be made without notice to the person referred to in clause (1)(a) or (b)."

**Mr Kormos:** Once again, I appreciate this is an effort to enhance the powers of the fire marshal in the course of his duties, but this blanket provision of "without notice," without specifying any qualifications to illustrate circumstances in which it can be done without notice I believe is repugnant. We will not be supporting it and we'll be seeking a recorded vote.

**The Chair:** Any further discussion in regard to the proposed amendment? If not, all those in favour, please raise your hand? We're having a recorded vote.

#### Ayes

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Ramsay, Kormos.

**The Chair:** The amendment carries.

Shall section 31, as amended, carry? All those in favour? Again a recorded vote, Mr Kormos?

**Mr Kormos:** No, sir. My opposition was indicated on the record.

**The Chair:** Carried.

We are proceeding to section 32. There are no amendments to section 32. If there's no discussion, I will put the question. Shall section 32 carry? All those in favour? Carried.

Moving to section 33, there are three government amendments. First is item 26.

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**Mr Bob Wood:** I move that subsection 33(1) of the bill be amended by striking out "section 21, 25 or 26" in the first and second lines and substituting "subsection 21(1) or (2) or section 25 or 26."

**The Chair:** If there is no discussion, shall this amendment carry? All those in favour? Carried.

**Mr Bob Wood:** I move that subsection 33(4) of the bill be amended by striking out "section 21, 25 or 26" in the fourth line and substituting "subsection 21(1) or (2) or section 25 or 26."

**The Chair:** Carried.

**Mr Bob Wood:** I move that section 33 of the bill be amended by adding the following subsection:

"Powers of commission

"(5) The Fire Safety Commission may, in addition to authorizing an inspector to cause to be done anything required to be done by an order under subsection 21(1) or (2) or section 25 or 26,

"(a) rescind the order; or

"(b) amend the order, or make such other order as the commission deems should have been made under the relevant section, and order the inspector to do the thing in accordance with the amended order or the other order."

**Mr Ramsay:** Could we have the explanation for that?

**Mr Bob Wood:** This amendment allows the Fire Safety Commission to have the same powers when

considering whether to give an inspector authority to carry out work under an inspection order, eg, repair of building to make it safer, install equipment or devices, remove combustibles etc, as the commission would have had if it were dealing with an appeal. That's the obvious reason.

**The Chair:** If there's no further discussion, I'll put the question. Shall the amendment carry? Carried.

Shall section 33, as amended, carry? All those in favour? Carried.

Section 34: Is there any discussion? Shall section 34 carry? Carried.

Section 35: There is one government amendment, being item 29.

**Mr Bob Wood:** I move that clause 35(1)(a) of the bill be amended by striking out "section 21, 25 or 26" in the fourth line and substituting "subsection 21(1) or (2), section 25 or 26."

**The Chair:** Is there any discussion? If not, shall the amendment carry? Carried.

Shall section 35, as amended, carry? That is carried.

We are proceeding to section 36. There is one government amendment, being item 30.

**Mr Bob Wood:** I move that subclause 36(3)(b)(i) of the bill be amended by striking out "section 21, 25 or 26" in the fourth line and substituting "subsection 21(1) or (2) or section 25 or 26."

**The Chair:** Shall that amendment carry? Carried.

Shall section 36, as amended, carry? Carried.

Shall sections 37 to 40, inclusive, carry? Those sections are carried.

We're now proceeding to section 41. Our first consideration is an opposition amendment, being item 31.

**Mr Ramsay:** I move that subsection 41(1) of the bill be amended by adding the following definition:

"'collective agreement' means an agreement in writing between an employer and a bargaining agent that represents firefighters employed by the employer containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the bargaining agent or the firefighters."

I just think this has been overlooked in the bill, that while certain rights have been taken away from firefighters in this bill, it's very important that the definition of a collective agreement be there so it can be referred back to by some other amendments coming later today.

**Mr Bob Wood:** We support this amendment.

**Mr Kormos:** Indeed, in view of the fact that it's the same amendment as we proposed by virtue of amendment 32, we support it as well.

**The Chair:** Shall this amendment carry? Carried.

The opposition amendment, being item 31, is carried.

**Mr Kormos:** Number 32 to be withdrawn because it's identical to the previous amendment, please.

**The Chair:** Item 32, being the third party proposed amendment to 41(1), is withdrawn.

We are now moving to item 33, being a government amendment.

**Mr Bob Wood:** The government withdraws this amendment.

**The Chair:** Item 33, the government amendment, is withdrawn.

We are proceeding to item 34, which is an opposition amendment.

**Mr Ramsay:** I move that the definition of "employer" in subsection 41(1) of the bill be struck out and the following substituted:

"'employer' means a municipality, group of municipalities or a party to an agreement with the fire marshal under section 3."

The reason for this obviously is to prevent the privatization of firefighting in Ontario. This is the very contentious definition that is in the bill saying that it, by what it says here, really means that it's a wide-open definition of an employer and moves away from the old act. In the bill it says, "'employer' means a municipality, person or organization that employs firefighters," and of course that is the very contentious aspect of this bill that opens up the privatization of all aspects of fire prevention and fire suppression in this province. This definition would bring remedy to that.

**Mr Kormos:** We support that amendment. Our amendment number 35 is, of course, identical to this. It's imperative that members of the committee support this if they are indeed sincere in their commitment to public professional firefighting services and if they want to avoid the type of chaos and tragedy that operators like Rural/Metro have visited upon communities in the United States.

**Mr Bob Wood:** We are opposed to this amendment. We think the definition, as proposed, is adequate.

**Mr Kormos:** Yes, because the definition, as proposed, opens the door to privatized firefighting services. I think that should be made clear. Thank you.

**The Chair:** If there's no further discussion —

**Mr Kormos:** Recorded vote, please.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

**Mr Kormos:** Could amendment 35 be withdrawn, please.

**The Chair:** Item 35 is withdrawn by Mr Kormos.

**Mr Kormos:** If I may, Chair, I made reference to that as amendment number 35. I clearly am not adopting any sort of practice here or acquiescing to any sort of practice. I am very specifically doing that under these very specific circumstances and not doing so to indicate my acceptance of that, were it, in my view, to be inappropriate during a given set of circumstances.

**The Chair:** Thank you.

**Mr Kormos:** You understand what I'm saying, Chair?

**The Chair:** I certainly do.

**Mr Ramsay:** Even if I don't, I won't ask.

**The Chair:** We are moving to item 36 and that is Mr Ramsay's proposed amendment.

**Mr Ramsay:** I move that the definition of "member" in subsection 41(1) of the bill be struck out.

The reason for that is the reference in the bill refers to trade union and includes a person who has applied for membership in a trade union. With what I think the government is going to change, they should be in favour of this as the firefighters' associations, I believe, are going to be allowed to continue to represent firefighters.

**Mr Bob Wood:** Mr Ramsay has correctly anticipated our position and we support this amendment.

1610

**Mr Kormos:** Again, there's an NDP amendment to the very same effect. Obviously, we're supporting this motion.

**The Chair:** Shall Mr Ramsay's amendment carry? All those in favour? Carried.

Item 37 is Mr Kormos's amendment, which he is withdrawing.

Item 38.

**Mr Bob Wood:** We withdraw item 38.

**The Chair:** We then go to item 39, which is Mr Ramsay's amendment.

**Mr Ramsay:** I move that subsection 41(1) of the bill be amended by adding the following definition:

"'trade union' means an association of firefighters that is a bargaining agent for the firefighters in a bargaining unit under this part."

This is for the very reason that I just explained, as far as allowing the association of firefighters to represent the firefighters in the province.

**Mr Kormos:** We agree with and support that motion, having tabled an identical motion on our behalf.

**Mr Bob Wood:** We think the existing definitions are adequate.

**Mr Kormos:** A recorded vote.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost. We are proceeding to item 40.

**Mr Kormos:** Withdrawn, please.

**The Chair:** Withdrawn by Mr Kormos.

We are proceeding to item 41, which is an amendment by Mr Ramsay.

**Mr Ramsay:** I move that subsection 41(2) of the bill be struck out and the following substituted:

"Managers not firefighters

"(2) A person designated by an employer under section 58 shall be deemed not to be a firefighter for the purposes of this part."

This refers to 58, the management exclusion section of the bill. It has been very contentious and we feel that this section would help rectify that.

**Mr Kormos:** We support that and indeed tabled a motion with identical language. What this does is prevent abuses of the designation process. I think it's imperative that this be adopted if indeed we're going to retain the integrity of firefighting services in the professional and team-like manner that they've developed and maintained throughout the province.



**Mr Bob Wood:** We have our own amendments on this issue, which will come later, or course, and we don't think this amendment's the right answer.

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Sheehan, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

We are proceeding to item 42. Are you withdrawing that, Mr Kormos? It looks identical.

**Mr Kormos:** Yes, sir.

**The Chair:** Thank you very much. Item 42 is withdrawn and we are proceeding to item 43, which is an amendment proposed by Mr Ramsay.

**Mr Ramsay:** I moved that 41(3) of the bill be struck out and the following substituted:

"Application of the LRA, 1995

"(3) Sections 110 to 112, 114 to 1118 and 120 to 123 of the Labour Relations Act, 1995, apply with necessary modifications to proceedings before the board under this act and the board may exercise the powers under those provisions as if they were part of this act.

"Same

"(3.1) The following provisions of the Labour Relations Act, 1995, apply with necessary modifications to relations between firefighters, trade unions and employers:

"1. Section 47: Deduction of union dues.

"2. Sections 68 and 69: Successor rights.

"3. Sections 70 to 77, 81 to 85 and sections 87 and 88: Unfair practices.

"4. Sections 96 to 102 and 108: Enforcement."

These changes are deemed to be necessary and now some of this may have been corrected by some of the changes the government is contemplating, but these were the labour relations provisions that were of great concern to firefighters as expressed through our deliberations. Therefore, this amendment would reflect those needs.

**Mr Kormos:** We support that indeed. Motion 44 is one that's worked identically to this motion presented on our behalf. We heard some very positive submissions from firefighters and chiefs in the Peterborough area and the Windsor area which demonstrated very progressive approaches to labour relations.

The inclusion of 3.1 and the expansion of subsection (3) as contained in these amendments, in our view, will go a long way to encouraging progressive labour relations within fire departments and municipalities across the province rather than those old-fashioned, hierarchical and top-down types of administrations which do not create the type of team approach that we witnessed can be created and that is desirable among professional firefighters.

Furthermore, the rejection of this amendment would seem to me to be yet another green light for private operators who would want to abuse employees working in a privatized firefighting service.

**Mr Bob Wood:** We will indeed address certain of these issues in our own amendments. On the other hand, we think certain of these issues need not be addressed.

**The Chair:** We're dealing with item 43.

**Mr Kormos:** Recorded vote.

**The Chair:** Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment fails.

Item 44 is withdrawn. We have item 45 which is a government amendment.

**Mr Bob Wood:** I move that subsections 41(3) and (4) of the bill be struck out and the following substituted:

"Application of the LRA, 1995

"(3) Sections 110 to 112, subsections 114(1) and (3), sections 116 to 118 and 120 to 123 of the Labour Relations Act, 1995, apply with necessary modifications to proceedings before the board under this act and the board may exercise the powers under those provisions as if they were part of this act.

"Transition

"(4) An agreement made under section 5 of the Fire Departments Act, or a decision or award made under section 6 of that act, that is in effect immediately before the day this part comes into force shall, on and after that day, remain in effect and be deemed to be a collective agreement to which this part applies.

"Same

"(5) If a request to bargain was made under section 5 of the Fire Departments Act before the day this part comes into force, this part applies as if notice had been given under section 50 on that day."

I gather an explanation is not requested.

**Mr Kormos:** With some hesitation, we're going to support this. It expands the application beyond what was originally in the bill, does not meet the standard that was contained in the Liberal motion which was just defeated, the amendment which would have been yet more appropriate, but under the circumstances, we feel compelled to support this.

**The Chair:** If there is no other discussion, shall the amendment carry? The amendment is carried.

We are proceeding to Mr Ramsay's motion, being item 46.

**Mr Ramsay:** I move that subsection 41(4) of the bill be struck out and the following substituted:

"Transition

"(4) An agreement made under section 5 of the Fire Departments Act, or a decision or award made under section 6 of that act, that is in effect immediately before the day this part come into force shall, on and after that day, remain in effect and be deemed to be a collective agreement to which this part applies.

"Same

"(5) An arbitration proceeding that was commenced under section 6 of the Fire Departments Act before the

day this part comes into force shall be continued after that day as if this part had not come into force. The presiding body or person shall apply the substantive provisions and the procedural rules that would have been applied under the Fire Departments Act.

"Same

"(6) If a request to bargain was made under section 5 of the Fire Departments Act before the day this part comes into force and the matter has not, as of that day, been referred to arbitration under section 6 of that act, this part applies to the request as if notice had been given under section 50 on that day."

I move this amendment in order to bring an orderly transition from the old Fire Departments Act to this new act.

1620

**Mr Kormos:** We support this amendment. It goes a small way towards recognizing the professionalism and dedication of our public professional firefighters.

**Mr Bob Wood:** We have dealt with sub (4) and sub (6) in the earlier amendment. Sub (5) we don't think is the right transition provision. We're opposed to this motion.

**The Chair:** If there's no further discussion, I shall put the amendment and a recorded vote is requested.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment fails, and we are proceeding to Mr Kormos's amendment, being item 47.

**Mr Kormos:** Item 47, though having some modest different wording from the previous amendment, that moved by the Liberals, substantially seeks the same end and the government, having defeated the previous amendment, this one I'm confident the Chair would rule out of order.

**The Chair:** Thank you, Mr Kormos, for the withdrawal of that motion. All amendments having been dealt with, I'll now put the question: Shall section 41, as amended, carry?

#### Ayes

Doyle, Parker, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** Section 41, as amended, has carried.

We are proceeding to section 42, and item 48 is a motion by Mr Ramsay.

**Mr Ramsay:** I move that section 42 of the bill be amended by adding the following subsection:

"Definitions

"(2) In this section,

"lockout" and "strike" have the same meaning as in the Labour Relations Act, 1995."

I bring this definition to this section that refers to "strike" and "lockout" in order to bring clarity to that and

to make sure that this act speaks of strikes and lockouts in the same meaning as the Labour Relations Act, 1995.

**Mr Bob Wood:** We support that.

**The Chair:** We have the support of the government and the opposition. If there's no further discussion, all those in favour of the amendment? All those against? Carried.

Item 49.

**Mr Kormos:** Withdrawn, please.

**The Chair:** Withdrawn. I understand the government is withdrawing item 42?

**Mr Bob Wood:** Excuse me. No, we're going to withdraw item 50.

**The Chair:** Item 50 I mean. Thank you very much. We have passed one amendment therefore. Shall section 42, as amended, carry? All those in favour?

**Mr Kormos:** One moment.

**The Chair:** Sorry. Mr Kormos. Yes, you had your hand up.

**Mr Kormos:** We'll not be supporting this. There was much comment on the fact that professional firefighters in this province, although having the right to strike, have never exercised that right, as a result of their dedication and commitment to fire protection services in their respective communities and throughout the province. This section was perceived as very much an insult to those firefighters.

As well, the importation of denial of the right to strike is accompanied by some serious infringements on traditional arbitration process and the common law as it applies to arbitration. Many workers in essential services have accepted being excluded from that group of workers who have a right to withdraw their labour, but there's always been a compromise and that is to say a fair arbitration process.

I would never encourage firefighters to do less than fulfil their responsibilities in meeting the requirements of fire protection services. However, when we see the balance so skewed in favour of employers here in terms of the importation of these unconscionable new standards for arbitration, I have to stand with firefighters on this one and oppose section 42.

As well, I've got to tell you, Chair, it's my strong suspicion — it goes well beyond suspicion; it's the only inference that can be drawn — that the inclusion of section 42 is once again designed to alleviate any fears that private sector, for-profit corporate operators might have about getting into the for-profit firefighting business in Ontario. My suspicion is that section 42 is as much to accommodate them as it is to achieve any other goal. Indeed, its primary purpose is to accommodate them. We will not be supporting section 42. We respect the professionalism of firefighters in this province.

**Mr Ramsay:** It's interesting. We've been working on this bill now for a few months. This bill has 61 pages in it and this one little sentence here that makes up in its entirety section 42 is probably one of the most contentious parts of this bill.

Not only that, but now this prevention of striking really signals a major change in labour relations in this province. For the first time, and with all three parties having up to this point governed this province, we now



have a government that really breaks a trust that, as I said, all governments of all three parties up till now have had with firefighters across the province.

It's really sad that in a minute or so we're going to be voting on a section that will eventually end up in this legislation that really breaks that trust. I think it really says a lot about how this government views workers in this province, especially the men and women who risk their lives on a daily basis to protect all of us across this province.

It's very sad to see this here, after all the pleas we have heard from across the province in all the days that we travelled across the province to hear deputations before the justice committee of the Ontario Legislature, that we still see this section 42 here. I think it's a shame and I very proudly will be voting against it.

**The Chair:** Is there any other discussion in regard to the amendment?

**Mr Kormos:** No, the section.

**Mr Ramsay:** It was just section 42.

**The Chair:** Yes, the section, as amended.

**Mr Ramsay:** Recorded vote, please.

#### Ayes

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** Section 42, as amended, carries.

We are proceeding to section 43, item 51, Mr Ramsay's motion.

**Mr Ramsay:** I move that subsection 43(1) of the bill be deleted.

The section referred to is the section that applies to firefighters employed in a municipality with a population of 10,000 or more. As you know, the firefighters in this bill lose the ability to negotiate the hours of work. I think that is wrong and this amendment is to correct that.

**Mr Kormos:** We join with the Liberal caucus in that regard and have tabled an identical motion because what subsection 43(1) implies is that the maximum workweek of 48 hours is applicable to communities with 10,000 or more population and that in small communities which constitute most of the municipalities in Ontario, there are literally going to be no limits on the number of hours worked per week.

Once again, this is exactly in tune with the proposition that Rural/Metro made to the CAO of the city of Waterloo when they proposed that were the city of Waterloo to go with Rural/Metro, with a private, for-profit, corporate American firefighting service, they'd have a 66-hour workweek for their firefighters. Granted, Waterloo is in excess of 10,000 people, but it's my respectful view that small towns, that is 10,000 or less, are going to be as inclined to look to privatized firefighting services as are big cities. This is all designed to accommodate Rural/Metro and its stockholders and is an anti-worker and certainly anti-firefighter section.

**Mr Bob Wood:** We have our own amendments that deal with some of these issues and we oppose this motion.

1630

**The Chair:** If there's no further discussion —

**Mr Gary L. Leadston (Kitchener-Wilmot):** Mr Chair, a point of order: For clarification, Mr Kormos and members of the opposition have on numerous occasions raised the issue and cited Waterloo as an example of seeking privatization. I'd like, for the record, to state that there was some exploration by the city of Waterloo. That's all it was. It never went any further. There was no serious intent to privatize the fire service in the city of Waterloo.

It was on previous occasions expressed that it was Kitchener and Waterloo. They are two separate and distinct fire services. Kitchener has not explored nor entertained the thought of privatization, and I emphasize that Waterloo explored that option and totally dismissed it.

**The Chair:** Thank you, Mr Leadston. That is not a point of order.

**Mr Leadston:** Clarification, then.

**Mr Kormos:** I wish Mr Leadston would stop filibustering this process. If it wasn't attractive before Bill 84, it'll be a heck of a lot more attractive to privatize after Bill 84.

**Mr Leadston:** I doubt that.

**The Chair:** Thank you, Mr Kormos. If there's no further discussion, I put Mr Ramsay's motion to a recorded vote.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Sheehan, Bob Wood.

**The Chair:** Mr Ramsay's amendment is lost.

**Mr Kormos:** Chair, item 52 is withdrawn. It's identical to the previous amendment.

**The Chair:** We are proceeding to item 53.

**Mr Ramsay:** I move that subsection 43(2) of the bill be amended by striking out "to work or" in the second line.

This again comes to the heart of the matter: that maximum hours of work are dictated to firefighters in a piece of legislation rather than through negotiation. That's the reason for the amendment.

**Mr Kormos:** We support this. Indeed our amendment is in identical language. This is a very generous amendment even to the government's intent. It recognizes that there may be circumstances in which a person might be on call, effectively, for hours in excess of their regular hours. This is an effort to compromise, which is difficult with this government. We were hoping the government members might accept that as the compromise it is and show some respect for professional firefighters by accepting this modest proposal.

**Mr Bob Wood:** We're opposed to this motion for the reasons outlined on the previous motion.

**The Chair:** If there's no further discussion, shall Mr Ramsay's amendment carry? A recorded vote has been requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Sheehan, Bob Wood.

**The Chair:** The amendment is lost.

Mr Kormos, item 54.

**Mr Kormos:** Withdrawn. It's identical to the previous amendment.

**The Chair:** We are moving to item 55.

**Mr Ramsay:** This is another attempt to try to bring collective bargaining back into hours of work. I move that subsection 43(3) be amended by inserting "Subject to the provisions of a collective agreement" at the beginning.

That's very self-explanatory. It is our belief that hours of work, shift arrangements, should be negotiated firehall by firehall, fire department by fire department.

**Mr Kormos:** We support this and indeed have an amendment to the same effect. This gives some modest recognition of the fact that workers in this province and in this country won the right to collectively bargain the hours of their work and wages, among other things. The failure to adopt this would constitute an attack on decades and generations of struggle for workers.

I know the government throughout the course of this hearing has said we can rely upon the goodwill and good faith and noblesse oblige of municipalities. If workers had to rely upon the noblesse oblige of their employers, kids would still be working in mines in northern Ontario and workers would still be getting paid 25 cents an hour with no pensions and with 12- and 14-hour workdays.

I think it's imperative that firefighters be accorded the hard-won right to negotiate their work hours and their work structures, the shifts they work. This is an attack on professional firefighters and an insult to the great contribution they've made to the welfare of our communities and the people who live in them; that is to say that the bill without the amendment is that attack.

**Mr Bob Wood:** We're opposed to this motion for the same reasons as the previous motion.

**The Chair:** We are dealing with Mr Ramsay's amendment, item 55. A recorded vote is requested. Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment fails. The next amendment is therefore out of order, Mr Kormos.

**Mr Kormos:** Withdrawn. It's identical to the previous motion.

**The Chair:** That's item 56. We are proceeding to the government amendment, item 57.

**Mr Bob Wood:** I move that subsections 43(1) to (8) of the bill be struck out and the following substituted:

"Hours of work

"43(1) In every municipality having a population of not less than 10,000, the firefighters assigned to firefighting duties shall work according to,

"(a) the two-platoon system where the firefighters are divided into two platoons, the hours of work of which shall be,

"(i) for each platoon 24 consecutive hours on duty followed immediately by 24 consecutive hours off duty, or

"(ii) for one platoon in daytime 10 consecutive hours on duty followed immediately by 14 consecutive hours off duty and for the other platoon in night time 14 consecutive hours on duty followed immediately by 10 consecutive hours off duty,

"and the platoons shall alternate at least every two weeks from night work to day work and vice versa;

"(b) the three-platoon system where the firefighters are divided into three platoons, the hours of work of which shall be eight consecutive hours on duty followed immediately by 16 consecutive hours off duty, and the platoons shall rotate in their periods of duty and time off as may be arranged for the purpose of changing shifts at least every two weeks; or

"(c) any other system of platoons or hours of work under which the maximum hours of work or hours on duty on average in any workweek are not more than 48 hours.

"Other personnel

"(2) Firefighters assigned to duties other than firefighting duties shall work such hours as are determined, but in no case shall such hours of work exceed the average workweek of the other full time firefighters.

"Maximum hours

"(3) No firefighters shall be required to be on duty on average in any workweek more than 48 hours.

"Weekly day off duty

"(4) Every firefighter shall be off duty for one full day of 24 hours in every calendar week, but where a two-platoon system or a three-platoon system is in operation, the 24 hours release at the change of platoons shall not be regarded as a day off duty for the purposes of this section.

"Time off duty

"(5) Nothing in this part prohibits any municipality from granting the firefighters more than one day off duty in every calendar week."

This amendment deletes these subsections and replaces them with subsections 2(1) to (5) of the Fire Departments Act. It restores the status quo re hours of work, restores hours of work as a management right which may be collectively bargained by municipalities.

**Mr Ramsay:** Can I have a clarification from the parliamentary assistant? Are you saying this restores the ability of firefighters to negotiate the hours of work? Is that what you just said?

**Mr Bob Wood:** That's correct.

**Mr Ramsay:** Could you point that out to me? This says "shall work according to."

1640

**Mr Bob Wood:** This restores the current practice. When you see how we deal with section 52 you'll see the total picture, which will be to remove that section.

**Mr Ramsay:** When you read this amendment and the section from whence it comes, this is just like we're all of a sudden being transported back in time into a Dickens



novel, dictating to workers how they're going to work. This turns the clock back at least a century in dictating how people are going to work right across this province in a particular profession, rather than, as has evolved in this century, the right of workers to sit down with their employers, take into account local conditions, the local situation, and negotiate how a certain workplace is to operate and to do that in agreement.

I don't see this amendment changing it much from what was originally proposed; firefighters are being dictated to, unlike any other group of workers in this province, through a piece of legislation. Like losing the right to strike, this is really turning back the clock on a very important segment of our society.

**Mr Kormos:** I think the parliamentary assistant had it right the first time when he said this creates management rights which could be collectively bargained, which means at the wish solely of management, should management wish to relinquish them. The parliamentary assistant basically says, "Trust me." Well, no more need be said in that regard.

This is as draconian and oppressive an amendment as could ever be presented. We're not going to support this. We're going to oppose it. This is a violation of the goodwill that firefighters have earned by their conscientious professionalism. We saw models, Windsor for example, where there are high levels of cooperation and strong rapport between the management and the firefighters in their professional firefighting department team. This will encourage and retain, for those communities that haven't developed that high level of cooperation, an antagonistic, adversarial relationship, one in which there's bound to be resentment.

I again say this is all about privatization. This is to ensure that the private, big-bucks, for-profit, corporate American operators are going to be able to dictate the work hours without fear of being forced to collectively bargain with firefighters. We're opposing it.

**Mr Bob Wood:** I'd like to re-emphasize that this is not a change but rather a continuation of the status quo from the Fire Departments Act. Whatever is bargained of course is subject to arbitration, which has been a system that's worked well.

**Mr Kormos:** That's the problem. Arbitration is no longer quid pro quo when you've amended the arbitration sections. Firefighters do not have a level field at the arbitration table any more. Your changes in the bill to the arbitration process slant arbitration virtually entirely towards the part of bosses, be they municipalities or, more likely, private, corporate, for-profit bosses. This doesn't cut it, not in 1997.

**The Chair:** Is there any further discussion? If not, I'll put the government motion. A recorded vote is requested. Shall Mr Wood's amendment carry?

**Ayes**

Doyle, Rollins, Sheehan, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** The motion is carried.  
We're now proceeding to item 58.

**Mr Ramsay:** I move that subsection 43 (10) of the bill be struck out and the following substituted:

"Exception for emergencies

"(10) Despite subsections (1) to (9) and subject to the terms of a collective agreement, if a major emergency such as a fire, flood or other disaster occurs and the major emergency requires the services of every firefighter in the fire department, the fire chief, deputy chief or any person designated under section 58 may recall to duty any firefighters necessary to meet the needs created by the major emergency.

"Fire suppression duties

"(11) No person shall be assigned to fire suppression duties other than a firefighter employed on a full-time basis."

This amendment tries to clarify two things. Subsection 43(10) is very unclear, as there's no definition of what a major emergency is; that's merely an easy way to allow the use of part-time firefighters in a full-time manner. The proposal I've made in subsection (10) really starts to define what a major emergency is so there would be a restriction on that; (11) spells out clearly that for fire suppression duties no firefighter other than a full-time firefighter be used.

**Mr Kormos:** We support this proposition. Indeed, I would propose an amendment now to the Liberal motion — and I refer you, Chair, and the committee to amendment 59, which has been tabled — that would delete their subsection (11) and replace it with an amendment which would read:

"Fire protection duties

"(11) No person shall be assigned to fire protection duties other than a firefighter employed on a full-time basis."

**The Chair:** I'm advised that we need that in writing before it's voted on, so it might be easier to deal with them separately, Mr Kormos.

**Mr Ramsay:** He's referring to 59; it's there. You can deal with them one at a time and —

**The Chair:** Yes, we are going to do that.

**Mr Ramsay:** Whatever.

**The Chair:** Is there any further discussion?

**Mr Kormos:** Having said that, we intend to support this motion and indeed will be seeking even broader coverage. Again, this motion is very generous because it only speaks of fire suppression. If government members were serious when they said what they've said through the course of these hearings about being pro-firefighter and pro-full-time firefighter and pro-professional firefighter, government members would be eager to support this modest proposal on the part of the Liberal caucus.

**Mr Bob Wood:** We are not going to support this motion. We feel that the definitions as proposed by the government are appropriate and that this is inappropriate.

**The Chair:** If there's no further discussion, shall the amendment carry? A recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

We are proceeding to item 59.

**Mr Kormos:** I move that subsection 43(10) of the bill be struck out and the following substituted:

"Exception of emergencies

"(10) Despite subsections (1) to (9) and subject to the terms of a collective agreement, if a major emergency such as a fire, flood or other disaster occurs and the major emergency requires the services of every firefighter in the fire department, the fire chief, deputy chief or any person designated under section 58 may recall to duty any firefighters necessary to meet the needs created by the major emergency.

"Fire protection duties

"(11) No person shall be assigned to fire suppression duties other than a firefighter employed on a full-time basis."

This amendment is obviously very similar to the previous one, except that it requires that full-time firefighters be used to provide fire protection duties, meaning the full ambit of duties as defined in section 1 of what will be the new act, should it pass. We believe in professional firefighters, we believe in full-time professional firefighters and believe that their expertise and commitment is necessary for the full provision of the broad range of fire protection duties. That's why we have presented this amendment, Chair.

1650

**The Chair:** Any further discussion in regard to the amendment?

**Mr Bob Wood:** We are opposed to it for the same reasons I outlined on the last motion.

**Mr Kormos:** I assumed that. I wonder if Mr Wood is unsure about the government caucus here, whether his noting that is to be on the record or whether it is to alert government caucus members who might feel some support for professional firefighters. That's just a comment as an aside.

**Mr David Tilson (Dufferin-Peel):** We're all of one mind here.

**The Chair:** If there is no further discussion in regard to Mr Kormos's amendment, I'll put the question. A recorded vote is requested. Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The motion is lost.

I shall now put the question, shall section 43, as amended, carry? A recorded vote is requested.

**Ayes**

Doyle, Rollins, Sheehan, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** Section 43, as amended, is carried.

We are now proceeding to section 44, item 60, Mr Ramsay's amendment.

**Mr Ramsay:** Chair, I'd certainly like to congratulate you for the blitzkrieg speed with which you have been pursuing these amendments today. It shows how effectively and efficiently, with some fine chairmanship, a committee can work — like a fire department; it's like teamwork.

I move that subsection 44(1) of the bill be amended by inserting "only" after "may" in the second line.

Just so that makes sense to everybody, I will read what the amended section would sound like:

"The employment of a firefighter may only be terminated upon seven days' notice. This notice may be accompanied by written reasons for the termination."

It's just to give clarity to this termination-of-employment section of the bill.

**Mr Kormos:** Obviously we support this, having proposed an amendment in identical language. Once again, this tries to soften some of the severity of this bill when it comes to its top-heavy, heavy-fisted, jackbooted approach by management to professional firefighters. I'm convinced that sections like section 44, if left unamended, are there only to accommodate private, for-profit, corporate, American firefighting services like Rural/Metro.

**Mr Bob Wood:** We don't feel this amendment is necessary.

**The Chair:** If there is no further discussion, shall Mr Ramsay's amendment carry? A recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost. Therefore, item 61 is now out of order.

**Mr Kormos:** I withdraw it. It's identical to the previous motion.

**The Chair:** Thank you, Mr Kormos. We are proceeding to item 62.

**Mr Ramsay:** I move that subsections 44(2) and (3) of the bill be struck out and the following substituted:

"Independent review

"(2) A firefighter who has received notice of termination and who does not have the right to challenge the termination pursuant to a grievance and arbitration procedure in a collective agreement may, within seven days of receipt of notice of termination, request a review of the termination.

"Same

"(3) Upon receipt of a request for a review of a termination, the municipality in which the firefighter is employed shall appoint a person who is not an employee of the municipality to conduct the review."

This is to ensure the independence of this review, and that's why I make this amendment.

**Mr Kormos:** I hope that down the road, if the government members indeed don't support this, there's a challenge to subsection (3) in terms of the appointment of a person to review. I put to you that the bill, as it now stands, constitutes a denial of natural justice and that there will be people challenging the appointment of



municipal employees to conduct that review. Without this amendment, the reviewing authority could well be, in view of the fact that it's appointed by the municipality, somebody who has strong inherent biases towards the municipality, which is ultimately the employer, or the contracting party in the case of private, for-profit, corporate, almost inevitably American, firefighting services.

I support the amendment. We have one which is a little more generous, which I'll be moving shortly, depending upon where this amendment goes. But I'm looking forward to the challenges of subsection (3) if it remains unamended, by parties who say it is a denial of natural justice, that it's absurd for a municipality to unilaterally appoint one of their employees, who has a responsibility, who has obedience to that municipality, to conduct a review in the case of a disagreement on the part of an employee firefighter. I think the government, by not accepting this amendment, is treading on very thin ice, is inviting litigation. I'm pleased that this caveat is on record now.

**Mr Bob Wood:** We think the existing scheme is adequate and appropriate. If indeed any party to a dispute of this nature doesn't follow the general laws with respect to arbitrators, obviously a court challenge may occur and it will be dealt with in accordance with the applicable law.

**The Chair:** If there is no other discussion, I'll put the question. A recorded vote is requested. Shall Mr Ramsay's amendment carry?

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

**Mr Kormos:** Chair, I'd like to withdraw motion 63. It has the same effect as the previous Liberal amendment.

**The Chair:** Thank you, Mr Kormos.

**Mr Kormos:** Thank you to legislative counsel.

**The Chair:** We are dealing with item 64.

**Mr Ramsay:** I move that subsections 44(5) and (6) of the bill be struck out.

These are provisions in regard to suspension of duties and same, for termination of cause, the issue here being the suspension of pay and benefits. This is extremely onerous. We have many cases in the news as of late —

**The Chair:** Excuse me, Mr Ramsay. You have the government's support on this.

**Mr Ramsay:** Oh, that's great. Then I won't berate them any longer.

**The Chair:** I'm not trying to cut you off.

**Mr Ramsay:** Thank you. I was going to say some nasty things, so you've saved me a great embarrassment. I'm very grateful, Chair.

**The Chair:** Mr Kormos, are you supporting this also?

**Mr Kormos:** You bet your boots, Chair, and we presented an amendment to the identical effect.

**The Chair:** Thank you very much. We will then put Mr Ramsay's amendment. All those in favour? That amendment is carried.

We are proceeding to item 65.

**Mr Kormos:** Withdrawn.

**The Chair:** Item 65 is withdrawn. Item 66, Mr Ramsay.

**Mr Ramsay:** I really appreciate that last intervention on my behalf. You really hate being nasty when you don't have to be.

I move that subsection 44(8) of the bill be struck out and the following substituted:

"Same

"(8) The decision of the person conducting the review is final and binding."

This refers to probationary period. It reads now:

"The employment of a firefighter may be terminated without cause at any time during the first 12 months, unless a collective agreement provides otherwise. Subsections (2) to (7) do not apply with respect to a termination during that period."

I think this amendment brings clarity to that.

1700

**Mr Kormos:** We support that, having an amendment to a similar end.

**Mr Bob Wood:** Mr Chairman, we're opposed to this motion. The scheme set out in the draft act is similar to that provided for police and for the public service, and we think it's appropriate. We're therefore opposed.

**The Chair:** Is there any discussion? If not, a recorded vote has been requested. Shall the amendment carry?

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

**The Chair:** The amendment is lost. The next amendment is Mr Kormos's, item 67.

**Mr Kormos:** Withdrawn. It in effect repeats the previous amendment, which was defeated by government members.

**The Chair:** I'll now put the question, unless there's further discussion — yes, Mr Kormos?

**Mr Kormos:** We're going to oppose section 44. There's been a failure to accept even the most modest proposals to try to create a more even-handed approach for firefighters. This is a highly objectionable section, especially as it remains unamended.

**The Chair:** If there is no further discussion, I shall put the question. Shall section 44, as amended, carry? A recorded vote is requested.

#### Ayes

Doyle, Leadston, Parker, Rollins, Sheehan, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** Section 44, as amended, carries. Section 45, item 68.

**Mr Ramsay:** I move that subsection 45(2) of the bill be struck out and the following substituted:

"Exclusion

"(2) The bargaining unit does not include persons designated under section 58."

Section 58 refers to the management exclusion section of the act, part IX, and this is moved to bring some clarity.

**Mr Kormos:** We support this proposition. It's the most modest of proposals. If the government members had the regard and respect for professional firefighters that they want to tell their constituents they do, they would be supporting this amendment.

**Mr Bob Wood:** We're opposed to this amendment. We think the bill, as proposed, gives the necessary flexibility to the municipalities to efficiently manage the firefighting services.

**The Chair:** If there's no other discussion, shall Mr Ramsay's motion carry? A recorded vote has been requested.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost. Item 69.

**Mr Kormos:** Withdrawn, Chair.

**The Chair:** It is withdrawn.

Is there any discussion with regard to section 44, as amended?

*Interjection.*

**The Chair:** Oh, you're right. This is section 45, and it's unamended. I'll put the question: Shall section 45 carry? Recorded vote.

#### Ayes

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

#### Nays

Kormos, Ramsay.

**The Chair:** The section carries.

Moving on to section 46, item 70, Mr Ramsay's motion.

**Mr Ramsay:** I move that section 46 of the bill be struck out and the following substituted:

"Bargaining agent

"46(1) The majority of firefighters in a bargaining unit may request an association of firefighters to represent them and act as their bargaining agent for purposes of collective bargaining under this part.

"Transition

"(2) An association of firefighters that, immediately before the day this part comes into force, was a party to, or bound by the provisions of, an agreement made under section 5 of the Fire Department Act or was bound by the decision or award of a board of arbitration under section 6 of the act shall, on and after the day this part comes into force, be deemed to be the bargaining agent for the firefighters in the bargaining unit."

This section is extremely important to clarify — we believe very strongly that the firefighter organizations today should be the organizations that continue to represent and bargain for firefighters.

**Mr Kormos:** We support this amendment and indeed filed one in identical language. I suspect the government members are going to adopt this amendment. I suspect they're going to vote for it, not because they have any real sympathy for professional firefighters but because this amendment alone, although it recognizes professional firefighters and their federations and associations, doesn't shut in any way the wide-open door this government has created for private, corporate, for-profit, American-style and American-based firefighting services.

**Mr Bob Wood:** We are opposed to this motion. We prefer our own amendment, which is item 72R. I'll explain why when we get to 72R.

**Mr Ramsay:** Chair, on a personal note to you, but on the record: As you know, and I'm not sure what all the reasons were, we were progressing at rather a snail's pace in the last few days and we're now going at a much faster pace. I've observed that maybe we are going a pace too far or fast for you, possibly. If we are going too fast, please let us know. We will try to moderate this.

**Mr Tilson:** You're doing a fine job, Mr Chair.

**Mr Ramsay:** I'm just concerned that maybe the two opposition members are putting too much pressure on the Chair. We're worried about you and we're concerned.

**The Chair:** I appreciate your concern, Mr Ramsay.

**Mr Kormos:** Chair, I'd be very cautious, if I were the parliamentary assistant, in wanting to play the game of saying they want to adopt their motion. If this motion is defeated, a subsequent identical motion might not be in order. Please. We've made some significant progress on this bill, addressing the bill in a forthright and I think timely way; let's not start playing games now.

**The Chair:** We are dealing with item 70.

**Mr Ramsay:** On that point, is it the judgement of the Chair and the clerk that the government is proposing a — I don't think we have a government motion on this, though.

**The Chair:** Yes, 72R, and I believe they are different.

**Mr Ramsay:** Okay. I may be a bit confused, because I'm seeing all these Rs, all the replacements. There are a number of replacement motions.

**The Chair:** I can't rule on it, but I would assume that would be a different motion and therefore in order. We are dealing with Mr Ramsay's item 70, his amendment to section 46. Is there any further discussion? If not, a recorded vote has been requested. I put the question: Shall section 46 carry?

**Clerk of the Committee (Mr Doug Arnott):** Excuse me. Shall the motion that Mr Ramsay —

**The Chair:** I'm sorry.

**Mr Ramsay:** See what I mean, Chair?

**The Chair:** Yes, I see what you mean, Mr Ramsay. Shall Mr Ramsay's amendment carry?

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.



**The Chair:** The amendment fails.

**Mr Kormos:** I assume you are withdrawing item 71?

**Mr Kormos:** Yes, sir.

1710

**The Chair:** Our next matter is item 72R.

**Mr Bob Wood:** I move that section 46 of the bill be struck out and the following substituted:

"Bargaining agent

"46(1) The majority of firefighters in a bargaining unit may request an association of firefighters to represent them and act as their bargaining agent for purposes of collective bargaining under this part.

"Transition

"(2) An association of firefighters that, immediately before the day this part comes into force, was a party to, or bound by, an agreement made under section 5 of the Fire Departments Act or was bound by the decision or award of a board of arbitration under section 6 of that act shall, on and after the day this part comes into force and until such time as a new bargaining agent is requested under subsection (1), be deemed to be the bargaining agent for the firefighters in the bargaining unit."

The (1) amendment provides that the majority of firefighters may request a fire association to represent them as a bargaining agent and restores the provisions of the Fire Departments Act in this respect. In (2) there's also a transition provision that, for all intents and purposes, effectively grandparents the existing fire associations.

**Mr Ramsay:** I was just wondering if I could get clarification on what the difference is between this government motion and the previous one that was defeated.

**Mr Bob Wood:** Yes. If you look at subsection (2) of motion 72R, the third-last line, I draw your attention to "and until such time as a new bargaining agent is requested under subsection (1)." It gives the firefighters the right to request representation by another association of firefighters. That's a substantive difference between motion 70 and motion 72R.

**Mr Kormos:** I think that's a very poor analysis of the replacement amendment. Subsection (1) exists whether or not it's referred to in subsection (2). But I'm certainly not asking the Chair to rule on the appropriateness of this amendment, and it constitutes a modest improvement over the bill. Quite frankly, the Liberal and NDP amendments, those being identical, were preferable, but we'll be supporting this amendment.

**The Chair:** You didn't ask me to rule on something?

**Mr Kormos:** No.

**The Chair:** Fine. Is there any further discussion? If not, we are dealing with Mr Wood's proposed amendment. Shall it carry? Carried.

I put the question in regard to section 46: Shall section 46, as amended, carry? Carried.

We are proceeding to section 47, dealing with item 73. Mr Ramsay.

**Mr Ramsay:** I want to recommend that we vote this down.

**The Chair:** Are we withdrawing it?

**Mr Ramsay:** No. I'm recommending that we vote section 47 down.

**The Chair:** Item 73 is out of order, Mr Ramsay.

**Mr Kormos:** I want to speak to section 47. I think it's bad —

**Mr Bob Wood:** We'll vote it down, Mr Chair.

**Mr Kormos:** It's bad drafting, it's bad in principle, it's bad in content, and we're not going to be supporting it. I suspect even the government members won't be supporting it, not because they have any sympathy for the dangerous job that professional firefighters do on a daily basis but merely because they've recognized that it isn't necessary to achieve their goal of privatized, for-profit, corporate, American-based or American-style firefighting services here in Ontario.

**The Chair:** Items 73 to 75 are not proposed amendments, so we are dealing with section 47 unamended, as it stands in the act. Is there any discussion in regard to section 47? If not, I will put the question. Shall section 47 carry?

**Interjections:** No.

**The Chair:** Anybody for?

**Mr Tilson:** Yes.

**Mr Kormos:** Recorded vote.

**The Chair:** I think that would be best. It was impossible to determine whether there was a majority in favour. Shall section 47 carry?

#### Nays

Doyle, Kormos, Leadston, Parker, Ramsay, Rollins, Tilson, Bob Wood.

**The Chair:** Section 47 does not pass.

Is there any discussion in regard to section 48?

**Mr Kormos:** We'll not be supporting section 48.

**Mr Bob Wood:** Mr Chair, nor will we.

**The Chair:** Shall section 48 carry? Section 48 fails.

Shall section 49 carry? Section 49 fails.

Section 50: We're dealing with item 82, a motion by Mr Ramsay.

**Mr Ramsay:** I move that subsection 50(1) of the bill be struck out and the following substituted:

"Notice of desire to bargain

"50(1) If no collective agreement is in effect, a bargaining agent shall, at the request of the majority of firefighters in the bargaining unit, give written notice to the employer of their desire to bargain with a view to making a collective agreement."

This is to clarify this section under collective bargaining. I believe the government may be — well, maybe not. The government has a similar motion, but anyway, I put this forward.

**Mr Kormos:** We support this and submitted and tabled an amendment in identical language. This clarifies what otherwise was a very obtuse and bad subsection, subsection 50(1), and it should be given effect to by government members.

**Mr Bob Wood:** We're opposed to this amendment, as we prefer our own, which I'll speak to when we come to it.

**The Chair:** I'll put the question: Shall Mr Ramsay's amendment carry? A recorded vote is requested.

#### Ayes

Kormos, Ramsay.

**Nays**

Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost. The next amendment, item 83, I assume is being withdrawn, Mr Kormos?

**Mr Kormos:** Yes.

**The Chair:** Thank you. The government, Mr Wood, item 84.

**Mr Bob Wood:** I move that subsection 50(1) of the bill be struck out and the following substituted:

"50(1) If no collective agreement is in effect, a bargaining agent acting pursuant to subsection 46(1) shall give written notice to the employer of its desire to bargain with a view to making a collective agreement."

This amendment restores the Fire Departments Act provision that a bargaining agent representing firefighters can give notice to the employer that it wishes to bargain. It removes the references to "certification" and to "trade union."

**The Chair:** Any further discussion in regard to the amendment? If not, shall the amendment carry? The amendment carries.

Item 85, Mr Kormos.

**Mr Kormos:** I move that subsection 50(2) be amended by adding after "collective agreement" in the fourth line "or, if no collective agreement is in operation, within a period of 90 days before the commencement of the calendar year or."

1720

Again this is a modest proposal. It cleans up what some might benignly view as sloppy draftsmanship, what others might view as an impediment — I certainly do — in the bill as unamended to the collective bargaining rights of firefighters. That of course is consistent with the government's whole approach to firefighters, but this modest proposal would give some recognition to collective bargaining rights so hard-fought-for for so long by so many workers in this province.

**Mr Bob Wood:** I don't want to get into a debate about drafting, but we do not feel this is necessary. We prefer our own draftsmanship on this.

**The Chair:** A recorded vote is requested. All those in favour of Mr Kormos's amendment?

**Ayes**

Kormos, Ramsay.

**Nays**

Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

Shall section 50, as amended, carry? Carried.

Shall section 51 carry? Carried.

Section 52: We have item 86, Mr Ramsay.

**Mr Ramsay:** While not a motion, the Liberal Party recommends voting against section 52. The reason is that it defines the scope of bargaining; it starts that by defining what the scope of bargaining is in respect to remuneration, including pension benefits and working conditions of members of the bargaining unit, but with the caveat "but shall not bargain in respect of the working conditions described in section 43," which relates

back to hours of work. That's why I'm recommending voting against it.

**The Chair:** I'm somewhat confused. Perhaps Mr Wood can —

**Mr Kormos:** Chair, there are a couple of amendments here.

**Mr Bob Wood:** We're going to withdraw them.

**Mr Kormos:** The amendments are withdrawn?

**Mr Bob Wood:** The amendments to section 52 are going to be withdrawn and we're going to oppose section 52.

**The Chair:** As I understand it, there are therefore no amendments now proposed to section 52 and all three parties have indicated that they will be voting against section 52.

**Mr Kormos:** If I may, Chair, we've been opposed to section 52 from the first day that we read it in this bill.

**The Chair:** Good. That's excellent. You got your wish, Mr Kormos. I'm pleased.

Shall section 52 pass? Section 52 fails.

We proceed to section 53, item 90, Mr Ramsay.

**Mr Ramsay:** I move that subsection 53(1) of the bill be struck out and the following substituted:

"Conciliation

"53(1) After notice is given under section 50 or after the parties have met and bargained, a party may, with the consent of all the other parties to the agreement, request that the minister appoint a conciliation officer to assist the parties in their attempt to effect a collective agreement."

"Appointment of conciliation officer

"(1.1) Within five days of receiving a request under subsection (1), the minister shall appoint a conciliation officer."

This amendment is proposed to bring clarity to this section of the bill.

**Mr Kormos:** We support this amendment and indeed have tabled an amendment in identical language.

**Mr Bob Wood:** We oppose this motion. We think mandatory conciliation is worth a try.

**The Chair:** I'll put the question. Shall Mr Ramsay's amendment carry? A recorded vote.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost.

Item 91 I believe is identical.

**Mr Kormos:** Yes, sir. Withdrawn.

**The Chair:** Withdrawn. Thank you.

Moving on to item 92, Mr Ramsay.

**Mr Ramsay:** I move that subsection 53(3) of the bill be struck out and the following substituted:

"Report to minister

"(3) Within 14 days after being appointed or within such longer period as the parties may agree upon, the conciliation officer shall report the results of his or her endeavour to the minister."



This change is to bring clarity to this section also, reporting to the minister.

**Mr Kormos:** We support that amendment and have tabled an amendment in identical language.

**Mr Bob Wood:** We're opposed. We think our wording is more flexible.

**The Chair:** If there's no further discussion, I'll put the amendment. Shall Mr Ramsay's amendment carry?

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost. I assume item 93 is being withdrawn, Mr Kormos?

**Mr Kormos:** Withdrawn, Chair.

Point of order: Wouldn't we better move to item 96?

**Mr Bob Wood:** They could presumably be withdrawn, could they not?

**Mr Kormos:** No, your 96.

**The Chair:** Well, we're dealing with them in order.

**Mr Bob Wood:** That would be all right with me, if that's what you want to do.

**Mr Ramsay:** That's fine.

**The Chair:** Okay. We have to come back but we will move to item 96, which is a government motion.

**Mr Kormos:** We're in agreement with this.

**Mr Bob Wood:** I move that subsections 53(5) and (6) of the bill be struck out.

**The Chair:** All those in favour of the amendment? The amendment is carried.

**Mr Kormos:** Item 95 is withdrawn.

**The Chair:** Thank you. Shall section 53, as amended, carry? Section 53, as amended, carries.

We are proceeding to section 54, item 97.

**Mr Ramsay:** I move that subsections 54 (1) and (2) of the bill be struck out and the following substituted:

"Arbitration

"54(1) After the report of the conciliation officer is submitted to the minister or, if the matter was not the subject of conciliation under section 53, after 30 days have elapsed since notice to bargain was given under section 50, either party may require that the matter be referred to arbitration for final and binding determination.

"Board or single arbitrator

"(2) A matter that is referred to arbitration under this section shall be referred to a board of arbitration composed of three persons unless the parties agree to refer it to a single arbitrator.

"Appointment of board

"(2.1) Each party may select one person to be appointed to the board of arbitration and the third person shall be selected by agreement of the parties.

"Same

"(2.2) The party who referred the matter to arbitration shall select an arbitrator within five days of giving the other party notice that the matter was to be referred to arbitration.

"Same

"(2.3) Within 10 days of receiving notice of the selection of an arbitrator under subsection (2.2), the other

party shall select a second arbitrator for appointment to the board of arbitration.

"Same

"(2.4) The two parties shall select the third arbitrator within 20 days of the selection of the second arbitrator.

"Same

"(2.5) If a party fails to select an arbitrator or if the two parties fail to agree as to the choice of the third arbitrator, the minister may make the appointment.

"Extension of time

"(2.6) The time periods within which an arbitrator must be selected under subsection (2.2), (2.3) or (2.4) may be extended by agreement of the parties.

"Selection of single arbitrator

"(2.7) If the parties agree to refer a matter to a single arbitrator, the parties will select the arbitrator within 20 days of the day notice that the matter is to be referred to arbitration is given. If the parties fail to agree as to the choice of the arbitrator within the 20 days, the minister shall, at the request of either party, select the arbitrator."

I think this amendment brings better clarity to the whole section 54.

1730

**Mr Kormos:** I agree. It not only brings clarity, but restores some of the long-held standards for arbitration process and prevents the bill from remaining as it is, which is a top-heavy one where firefighters are punished for being professional and hardworking and dedicated. We support this amendment and indeed have tabled one in identical language.

**Mr Bob Wood:** We are opposed to this motion. We think flexibility is needed in how arbitrators are appointed, and we think our draft achieves that.

**The Chair:** I put the question. Shall Mr Ramsay's amendment carry? A recorded vote.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost. Item 98 is withdrawn, I assume, Mr Kormos. It's identical.

**Mr Kormos:** Yes, sir, thank you. It's identical.

**The Chair:** Item 99, Mr Ramsay.

**Mr Ramsay:** I move that subsection 54(7) of the bill be struck out.

This refers to criteria that the arbitrator has to take into account before making his or her decision. In this section, the old bugaboos are put in there: that the employer's ability to pay in light of a fiscal situation is stated; the extent to which services may have to be reduced in light of the decision if the current funding and taxation levels are not increased.

When we're talking about firefighting, which includes fire suppression and emergency services, it is incumbent upon an arbitrator to make the very best decision for the people working in that particular service in that community.

**Mr Kormos:** Of course we support this. The opposition has been critical of subsection 54(7) throughout the

course of these hearings. This subsection should come as no surprise to anybody who was reasonably astute during the last couple of years of the last government, because the new criteria were part of a private member's bill that was presented by a Conservative member during the course of 1994-95.

I should tell you that we pulled that bill and distributed it in Welland-Thorold during the last election to give people an indication of where the Tories were going to come from when it came down to arbitration. In that respect, the Tories didn't disappoint anybody.

Mr Wood spoke of flexibility when he made reference to his refusal to support some modification of his bill, the previous amendment, in terms of maintaining some fairness in the course of arbitration.

This subsection contradicts the common laws that have been developed with respect to arbitration. It expresses disdain for professional firefighters. When you conjoin this with the denial of the right to strike, it puts firefighters in almost a feudal position with respect to their employer.

It is repugnant, subsection (7), to any fairminded person, and we are opposing this in the strongest manner. I predict that this government will bring all sorts of grief on itself by virtue of this subsection and the emergence of this subsection in any other number of pieces of legislation, grief that I'll have no sympathy for because they will have brought it on themselves and they will earn the wrath of huge numbers of public servants in the province of Ontario.

Did I mention that I'm voting against this?

**The Chair:** Yes. Thank you. Mr Wood.

**Mr Bob Wood:** We're opposed to this motion. We feel that the criteria introduced last year were fair and will work, and that's what we're doing in this bill, introducing the same criteria.

**Mr Kormos:** Recorded vote.

**The Chair:** If there's no further discussion, shall Mr Ramsay's amendment carry? A recorded vote is requested.

#### Ayes

Kormos, Ramsay.

#### Nays

Doyle, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment fails and is lost. I assume we are withdrawing item 100, Mr Kormos. It's identical.

**Mr Kormos:** Yes, sir, thank you.

**The Chair:** We have a government motion, item 101.

**Mr Bob Wood:** I move that subsection 54(8) of the bill be amended by striking out "the arbitration board" in the second line and substituting "the arbitrator or the arbitration board."

This in essence amends a drafting error by adding reference to the arbitrator and board.

**The Chair:** If there's no discussion with regard to that, I'll put the amendment. Shall the amendment carry? The amendment carries.

Proceeding to item 102, Mr Wood.

**Mr Bob Wood:** I move that section 54(15) of the bill be struck out and the following substituted:

"Costs of arbitration

"(15) Each party shall assume its own costs in the arbitration proceedings and pay,

"(a) in cases where the matter was referred to a board of arbitration, the cost of any member of the board appointed on the party's behalf and one half the costs of the chair of the board; or

"(b) in cases where the matter was referred to a single arbitrator, one half of the costs of the arbitrator."

This clarifies that the parties must pay for their own legal costs in the interest of arbitration proceedings, as well as one half each of the cost of the arbitration itself.

**Mr Kormos:** Under normal, healthy circumstances, I'd be inclined to support this. But this government has skewed the arbitration process so far in favour of the employer that my fear is that firefighters, now being denied the right to a work stoppage, even though they've never exercised that, the arbitration becomes a sham when it's controlled by subsection 54(7).

I am not going to vote against this, but I am going to tell you, this is like telling an accused person to pay the cost of his own executioner, or even to share the cost. It's nuts. You're forcing firefighters into an arbitration process that has lost all semblance of fairness, where the government wants to exercise control over who gets picked as arbitrators. We know why. There's no secret about that. It has nothing to do with flexibility. Then to tell firefighters they're going to have to pick up half the tab of the chair of the board and the membership of the board when the board is basically going to be there to do the boss's wishes I think is absolutely nuts.

As I say, under normal circumstances, this type of proposition wouldn't be offensive. Under these circumstances, I think it's highly offensive.

**Mr Bob Wood:** I have nothing to add to what I said.

**The Chair:** Fine. If there's no other discussion, shall Mr Wood's amendment carry? The amendment carries.

Item 103, Mr Ramsay. You have government support on this.

**Mr Ramsay:** Okay, I'll read it into the record then.

I move that subsection 54(17) of the bill be struck out and the following substituted:

"Non-application

"(17) The Arbitration Act, 1991 and the Statutory Powers Procedure Act do not apply with respect to an arbitration under this section."

I take it this was just an omission, and the government agrees with this, so we've now included the Statutory Powers Procedure Act in this.

**The Chair:** Shall the amendment carry? It's unanimous.

Item 104 is withdrawn. We are now dealing with item 105. It's withdrawn?

**Mr Bob Wood:** Withdrawn.

**The Chair:** Fine. We've dealt with all the outstanding motions and amendments with regard to section 54. Is there any discussion regarding section 54, as amended?

**Mr Kormos:** The inclusion, the maintenance of subsection (7), makes it impossible to vote for section 54.



We are opposed to section 54 as a result of the inclusion of subsection (7) and are voting against it.

**The Chair:** Do you wish a recorded vote?

**Mr Kormos:** Please, sir.

**The Chair:** There being no other discussion, shall section 54, as amended, carry?

**Ayes**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** Section 54, as amended, carries.

1740

Proceeding to section 55: Shall section 55 carry? It is carried.

Section 56: Mr Ramsay, item 106.

**Mr Ramsay:** I move that subsection 56(2) of the bill be struck out and the following substituted:

"Extension of term of collective agreement

"(2) Despite subsection (1), the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement and the continuation of the collective agreement may be terminated by either party upon 30 days' notice to the other party."

It's my understanding that the government supports this. We think it's a great improvement to the existing section.

**The Chair:** Mr Kormos, will you support — okay.

We have an amendment before Mr Ramsay, being item 106. All those in favour? The amendment is carried.

The next item is item 107.

**Mr Kormos:** We would have preferred that subsection 56(2) were simply deleted. The Liberal amendment does indeed improve subsection 56(2). By virtue of the last vote, I anticipate a response to a suggestion that it be struck out. Withdraw that amendment, please.

**The Chair:** Are you withdrawing that?

**Mr Kormos:** Yes, sir, 107.

**The Chair:** Thank you. Item 107 is withdrawn.

**Mr Bob Wood:** The government withdraws 108.

**The Chair:** Item 108 is withdrawn. Item 109.

**Mr Kormos:** I move that subsection 56(3) of the bill be struck out.

This government really wants to get its dirty little fingers into collective bargaining agreements — sticky, grabby little fingers — and tell people what they ought to be bargaining. Subsection 56(3) does it again. I think firefighters, like workers in every other sector, have a right to bargain and negotiate the contracts they have with their employers.

We resent interference with that collective bargaining right, and subsection 56(3) is yet another element of it. I am calling for support for the exclusion of subsection 56(3).

**The Chair:** Any further discussion?

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos.

**Nays**

Doyle, Leadston, Parker, Ramsay, Rollins, Tilson, Bob Wood.

**The Chair:** The motion fails.

I'll now put the question. Shall section 56, as amended, carry? Against? It carries.

Section 57: Item 110, Mr Ramsay.

**Mr Ramsay:** I move that subsections 57(1) and (2) of the bill be struck out and the following substituted:

"Arbitration of disputes

"57(1) Every collective agreement shall provide for the final and binding settlement of all differences between the parties arising from the interpretation, application, administration or alleged violation of the collective agreement, including any question as to whether a matter is arbitrable, by a single arbitrator.

"Same

"(2) If a collective agreement does not contain the provision mentioned in subsection (1), it shall be deemed to contain the following provision:

"If a difference arises between the parties relating to the interpretation, application, administration of this collective agreement or if an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established in this agreement, notify the other party in writing of its desire to submit the difference to a single arbitrator.

"Selection of single arbitrator

"(2.1) If a matter is referred to arbitration, the arbitrator shall be selected by agreement of the parties within 10 days of the day notice was given to refer the matter to arbitration.

"Failure of parties to select

"(2.2) If the parties do not agree upon the choice of the arbitrator within the 10-day period, either party may request that the minister appoint the arbitrator. Upon receiving a request to appoint an arbitrator, the minister shall forthwith make the appointment."

This amendment is made to bring some fairness to the arbitration process.

**Mr Kormos:** We support this amendment and have tabled an amendment in identical language. I would think, having read the government's own amendment to section 57, that the similarity of their amendment to this one but for subsection (2.2) would not bar them from supporting this amendment. Subsection (2.2) is oh-so-logical, indeed it's commonsensical. It would seem to me that the government should be acknowledging that the inclusion of (2.2) in the opposition parties' amendments is indeed an improvement even on the government's own amendment, which says everything this amendment does but for (2.2). Subsection (2.2) is a very practical and reasonable inclusion, and I can't for the life of me think why the government wouldn't support this and withdraw their amendment.

**Mr Bob Wood:** We're opposed to this motion. We're going to be bringing in our own amendment, as members

are aware. We feel that more flexibility is needed than this amendment provides.

**Mr Kormos:** If that's the new buzzword, "flexibility," it's going to be Pavlovian; it's going to drive fear into us every time we hear this government talk about the need to be flexible. It's scary stuff.

**The Chair:** Shall Mr Ramsay's amendment carry? A recorded vote is called.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The motion is lost. Item 111 is withdrawn, I believe, by Mr Kormos, being identical in wording. We move to Mr Wood and item 112.

**Mr Bob Wood:** I move that subsections 57 (1) and (2) of the bill be struck out and the following substituted:

"Arbitration provision required

"57(1) Every collective agreement shall provide for the final and binding settlement by arbitration of all differences between the parties arising from the interpretation, application, administration or alleged violation of the collective agreement, including any question as to whether a matter is arbitrable, by a single arbitrator.

"Same

"(2) If a collective agreement does not contain the provision mentioned in subsection (1), it shall be deemed to contain the following provision:

"If a difference arises between the parties relating to the interpretation, application, administration of this agreement, including any question as to whether a matter is arbitrable, or if an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established in this agreement, notify the other party in writing of its desire to submit the difference or allegation to a single arbitrator.

"Selection of single arbitrator

"(2.1) If a matter is referred to arbitration, the arbitrator shall be selected in accordance with the regulations."

Is an explanation desired?

**Mr Ramsay:** Yes.

**Mr Bob Wood:** This mirrors section 48 of the Labour Relations Act and provides for rights arbitration by a single arbitrator in conjunction with the regulations. If a collective agreement does not contain a provision for arbitration of rights disputes by a single arbitrator, subsection 57(2) will deem that it does contain the provision set out here.

**The Chair:** We have the amendment. If there's no further discussion, shall the government amendment carry? All those in favour? Carried.

We'll proceed to item 113.

**Mr Bob Wood:** I move that subsection 57(13) of the bill be struck out and the following substituted:

"Costs of arbitration

"(13) Each party shall assume its own costs in the arbitration proceedings and pay one half of the costs of the arbitrator."

This of course clarifies that each party pays its own legal fees and half each of the cost of the arbitration itself.

**The Chair:** All those in favour of the motion? Carried. Mr Ramsay, item 114.

**Mr Ramsay:** I move that section 57 of the bill be amended by adding the following subsection:

"Enforcement of arbitration decision

"(13.1) Where a party or firefighter has failed to comply with any of the terms of the decision of an arbitrator, any party or firefighter affected by the decision may file in the Ontario Court (General Division) a copy of the decision, exclusive of the reasons therefor, whereupon the decision shall be entered in the same way as a judgement or order of that court and is enforceable as such."

This is to give some teeth to arbitration decisions.

1750

**The Chair:** Is there any further discussion?

**Mr Bob Wood:** Yes. We're opposed. We feel that subsection 59(1) of the bill provides effectively for enforcement of decisions.

**The Chair:** If there is no further discussion, shall the amendment carry?

**Mr Ramsay:** Recorded vote.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment fails. Mr Kormos is withdrawing 115.

**Mr Kormos:** It's identical; withdrawn.

**The Chair:** Item 116, Mr Ramsay. The government is in favour of this. Could you read it into the record, please.

**Mr Ramsay:** I move that subsection 57(14) of the bill be struck out and the following substituted:

"Non-application

"(14) The Arbitration Act, 1991 and the Statutory Powers Procedure Act do not apply with respect to an arbitration under this section."

I think this is self-explanatory, to bring in the other act.

**The Chair:** Shall the amendment carry? Carried.

**Mr Kormos:** Item 117 is withdrawn, please; identical language.

**Mr Bob Wood:** Item 118 is also withdrawn.

**The Chair:** There are no further amendments, therefore, before us. I'll put the question: Shall section 57, as amended, carry? Against? It carries.

Section 57.1 is created by an amendment proposed by Mr Ramsay, item 119.

**Mr Ramsay:** I move that the bill be amended by adding the following section:

"Request for minister to appoint arbitrator

"57.1(1) Despite the arbitration provision in a collective agreement or deemed to be included in a collective agreement under section 57, a party to a collective agreement may request that the minister refer to a single



arbitrator any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable." I sound like Bert here.

"Circumstances in which a request may be made

"(2) Subject to subsection (3), a request may be made under this section by a party to a collective agreement in writing after the grievance procedure under the agreement has been exhausted or after 30 days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever occurs first.

"Same

"(3) If a difference between the parties to a collective agreement is a difference respecting discharge from or other termination of employment, a request under this section may be made by a party to a collective agreement in writing after the grievance procedure under the agreement has been exhausted or after 14 days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever occurs first.

"Minister to appoint arbitrator

"(4) If a request is made under this section, the minister shall appoint a single arbitrator who shall have exclusive jurisdiction to hear and determine the matter referred to him or her, including any question as to whether a matter is arbitrable.

"Joining grievances

"(5) If one or more requests concern several differences under a collective agreement, the minister may appoint an arbitrator under this section to deal with all the grievances raised in the requests.

"Settlement officer

"(6) The minister may appoint a settlement officer to confer with the parties and endeavour to effect a settlement before the hearing by an arbitrator appointed under this section.

"Powers and duties of arbitrator

"(7) An arbitrator appointed under this section shall commence to hear the matter referred to him or her within 21 days after the minister receives the request and section 57 applies with necessary modifications to the arbitrator, the parties and the decision of the arbitrator.

"Oral decisions

"(8) Upon the agreement of the parties, the arbitrator shall deliver an oral decision forthwith or as soon as practicable without giving his or her reasons in writing therefor.

"Payment of arbitrator

"(9) Each of the parties to a grievance that is referred to an arbitrator under this section shall pay one half of the costs of the arbitrator."

Just to bring clarity, Chair.

**Mr Kormos:** We support this and indeed filed an amendment in identical language. It brings clarity, as Mr Ramsay says, and also brings back a little bit of fairness to a grossly unfair system designed by this government.

**Mr Bob Wood:** We are opposed to this. We think the arbitration provisions in our draft are adequate. I might point out that the parties themselves can expedite in whatever way they think is appropriate.

**The Chair:** Shall Mr Ramsay's amendment carry?

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos, Ramsay.

**Nays**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**The Chair:** The amendment is lost. Mr Kormos, I assume, will be withdrawing —

**Mr Kormos:** Item 120, identical language, withdrawn, please.

**The Chair:** Section 58, Mr Ramsay, item 121.

**Mr Ramsay:** I withdraw that amendment.

**The Chair:** Item 121 is withdrawn. Item 122, I believe, is identical.

**Mr Kormos:** No, Chair, it's not.

**The Chair:** But the other one was withdrawn.

**Mr Kormos:** In fact, you'll notice there's a subsection (6) on it. But we withdraw that as well.

**The Chair:** Okay. Item 122 is withdrawn. Government motion 123.

**Mr Bob Wood:** I move that subsection 58(2) of the bill be amended by striking out "the board has" in the first line and substituting, "the board, on application of a bargaining agent, has."

*Interjection.*

**Mr Bob Wood:** I'd like to withdraw what I just read. I wasn't given a replacement motion, which I now have.

**Mr Kormos:** One moment, Chair. Perhaps we need some oxygen in the room.

**Mr Bob Wood:** Well, open a window. If you think you need it, Peter, we'll open a window.

**Mr Kormos:** No, not for me.

**The Chair:** Please proceed, Mr Wood.

**Mr Bob Wood:** By the time I'm done, you may need some, so be ready.

**Mr Kormos:** No, not for you. You almost caused some serious relapses here.

**Mr Bob Wood:** I move that subsection 58(2) of the bill be amended by striking out "the board has" in the first line and substituting "the board, on application of an employer, has."

**The Chair:** Is there any discussion?

**Mr Kormos:** I should indicate we're going to support that government amendment. It begins to address serious concerns that a whole lot of the Ontario community has with this bill.

**The Chair:** Shall the amendment carry? Carried.

Dealing with item 124, Mr Wood.

**Mr Bob Wood:** This is a revision.

**The Chair:** I'm sorry, item 124-A. Here it is right here.

**Mr Bob Wood:** I move that section 58 of the bill be amended by adding the following subsection:

"Same

"(2.1) Subject to subsection (3), a person shall remain in the bargaining unit until the board makes a determination under subsection (2), unless the parties otherwise agree."

**The Chair:** All those in favour of the amendment? Carried.

**Mr Bob Wood:** We're now on to 124.

**The Chair:** Proceed.

**Mr Bob Wood:** I move that subsection 58(3) of the bill be amended by striking out "subsection (5)" in the first line and substituting "subsections (3.1) and (5)."

**The Chair:** All those in favour of the amendment? Carried.

Item 125, a government motion.

**Mr Bob Wood:** I move that section 58 of the bill be amended by adding the following subsections:

"Consent required

"(3.1) An employer shall not designate a person under subsection (3) unless the person consents to the designation.

"If no consent

"(3.2) If a person does not consent to a designation under subsection (3), the employer shall assign the person to a position in the bargaining unit. If the position to which a person is assigned has a lower salary than the position held by the person before the assignment, he or she is entitled to be paid the same salary and to receive the same benefits after the assignment as he or she was paid and received before the assignment."

**The Chair:** Is there any discussion? All those in favour of the amendment? Carried.

Those are the amendments for section 58.

**Mr Kormos:** I should tell you that we still have great difficulty with section 58, notwithstanding the amendments which we supported. The power to designate and

the fact that that creates this top-heavy, vertical structure, which is contrary to what should be the trend, is disturbing to people in communities across Ontario. We will not be supporting section 58, notwithstanding the amendments to it.

**The Chair:** I'll put the question. A recorded vote has been requested. Shall section 58, as amended, carry?

**Ayes**

Doyle, Leadston, Parker, Rollins, Tilson, Bob Wood.

**Nays**

Kormos, Ramsay.

**The Chair:** Yes, Mr Wood.

**Mr Bob Wood:** There was an inquiry yesterday with respect to the number of unincorporated communities that do not have access to some form of fire suppression services. We have an answer from the ministry, which I'm going to table with the clerk, who also has extra copies for any members of the committee or others who may be interested.

**The Chair:** We're proceeding now with item 126.

**Mr Kormos:** Chair, I note it's beyond 6 of the clock. That's a late show.

**The Chair:** Yes, okay. The time for the sitting has elapsed, and we will be adjourning the hearing until Monday, May 5, 1997, at 3:30 pm.

*The committee adjourned at 1801.*











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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 5 May 1997

# Journal des débats (Hansard)

Lundi 5 mai 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



Chair: Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 5 May 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 5 mai 1997

*The committee met at 1531 in room 228.*

FIRE PROTECTION AND  
PREVENTION ACT, 1996

LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen, members of the committee. This is a continuation of the justice committee's consideration of Bill 84.

First, Mr Rollins, you have a motion?

**Mr E.J. Douglas Rollins (Quinte):** Yes, Mr Chair. I'd like to move that Robert Wood be named a member of the subcommittee, replacing David Tilson.

**The Chair:** Thank you. Agreed? Carried. Possibly after today's meeting we could have a very short subcommittee meeting if that's convenient for everyone.

We last dealt with section 58 of the act, and that was passed as amended. We are now dealing with section 59, item 126, being a government motion.

**Mr Bob Wood (London South):** I move that subsection 59(1) of the bill be amended by striking out "trade union" wherever it occurs and substituting "bargaining agent."

I will give explanations if requested.

**The Chair:** Is there any discussion in regard to that amendment? If not, all those in favour? Carried.

Shall section 59, as amended, carry? All those in favour? Carried.

We are proceeding to section 60, and there is an opposition motion, item 127.

**Mr David Ramsay (Timiskaming):** I move that section 60, exclusive of the clauses, be struck out and the following substituted:

"Working conditions not to be altered

"60. If notice to bargain has been given under section 50 and no collective agreement is in operation," and that will be the end of the amendment.

The purpose of this is to try to bring back to the firefighters some of the bargaining rights that have been taken away in this Fire Protection and Prevention Act.

**Mr Bob Wood:** We're opposing this amendment because we have our own which we believe is more complete.

**The Chair:** All those in favour of Mr Ramsay's amendment?

**Mr Peter Kormos (Welland-Thorold):** Recorded vote.

**Ayes**

Kormos, Ramsay.

**Nays**

Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost. We are proceeding to 128, which is identical.

**Mr Kormos:** Withdrawn.

**The Chair:** Thank you, Mr Kormos. Now we have 129-R, which is a replacement motion by the government.

**Mr Bob Wood:** I move that section 60 of the bill be struck out and the following substituted:

"Working conditions not to be altered

"60(1) If notice has been given under section 50 by a bargaining agent for a unit of firefighters or an employer and no collective agreement is in operation,

"(a) the employer shall not, except with the consent of the bargaining agent, alter the rates of wages or any other term or condition of employment or any right, privilege or duty of the employer or the firefighters until the right of the bargaining agent to represent the firefighters has been terminated; and

"(b) the bargaining agent shall not, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the bargaining agent or the firefighters until the right of the bargaining agent to represent the firefighters has been terminated.

"Arbitration if no agreement

"(2) If notice has been given under subsection 50(2) and no collective agreement is in operation, any difference between the parties as to whether or not subsection (1) was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and the arbitration shall proceed in accordance with section 57."

**Mr Kormos:** What about subsection (3) of your amendment?

**Mr Bob Wood:** There is no subsection (3). The amendment proposes to strike out the existing section 60 and substitute what I just read.

**Mr Kormos:** Well, I've got a government motion —

**Mr Bob Wood:** It's 129-R. It's revised. If you get that, you'll get what you're looking for. Do you have 129-R?

**Mr Kormos:** Now I do. The material change here is, "until the right of the bargaining agent to represent the firefighters has been terminated." I'd like the parliamentary assistant to put on the record why that was added. I mean, that's the material alteration there, rather than changing "trade union" to "bargaining agent." Why is that addendum there?

**Mr Bob Wood:** Okay, what I'll do is, if there are any other questions, I'll answer all of them.

**Mr Ramsay:** If you would just give your explanation.

**Mr Bob Wood:** The amendment replaces the words "trade union" with "bargaining agent" in accordance with the other change removing certification-decertification provisions. It also provides for a statutory freeze of wages and other terms and conditions of employment after the expiry of the collective agreement and before a new agreement is entered into.

Subsection 60(2) allows the arbitration of statutory freeze provisions. That's similar of course to subsection 86(3) of the Labour Relations Act.

**Mr Kormos:** Subsection (1) says, "and no collective agreement is in operation." Fair enough. Why is the language "until the right of the bargaining agent to represent the firefighters has been terminated" germane to your amendment?

**Mr Bob Wood:** I'm sorry. Give me the last two sentences of your question again.

**Mr Kormos:** How is the language "until the right of the bargaining agent to represent the firefighters has been terminated," germane to your amendment?

**Mr Bob Wood:** It's removed, because it's in section 60 now.

**Mr Kormos:** I know you're adding it to section 60. I'm asking, what is the intent there? What does that do? What does that add to section 60? Because it says the only time section 60 kicks in is when no collective agreement is in operation.

**Mr Bob Wood:** It's in the bill now, and if it wasn't drafted as it now is, they could ask another association to represent them prior to the right of the existing association being terminated. I think the drafting has to —

**Mr Kormos:** Okay. That's your reason for having it in there?

**Mr Bob Wood:** Yes. The answer is, until you're terminated you have bargaining rights.

**Mr Kormos:** Okay. Fair enough.

**Mr Bob Wood:** That's the short answer to your question.

**Mr Kormos:** God bless you.

**The Chair:** Any other questions in regard to the proposed amendment? If not, I'll call the question.

**Mr Kormos:** Recorded vote, please.

**Ayes**

Flaherty, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos, Ramsay.

**The Chair:** The amendment is carried.

We are now dealing with section 60, as amended by the government amendment. Is there any discussion in

regard to same? If not, all those in favour of section 60, as amended?

**Mr Kormos:** Recorded vote, please.

**Ayes**

Flaherty, Guzzo, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos, Ramsay.

**The Chair:** Section 60 shall carry.

We are now dealing with section 61, and the three items attached are all recommendations that this committee — that includes the government — vote against the section.

**Mr Bob Wood:** On a point of order, Mr Chairman: The government proposes to vote against sections 61 to 66, inclusive. I don't know whether there's any interest in dealing with them as a group or not.

1540

**Mr Ramsay:** Maybe to be helpful I could just read that into the record and include all those sections. I guess it's all parties, so why don't we just say that all parties recommend that we vote against sections 61 through 66?

**Mr Kormos:** Why doesn't the government throw in section 67, and we'll all be happy?

**Mr Bob Wood:** We can't deal with more than six at a time.

**The Chair:** The question before the committee is, shall sections 61 to 66, inclusive, carry? They are all lost.

We are now proceeding to section 67 and we have a Liberal — no, a government amendment, being item 150.

*Interjections.*

**The Chair:** I'm sorry. There are no amendments, then.

**Mr Kormos:** Well, let me speak to section 67, then.

**The Chair:** Yes, that's what we're dealing with.

**Mr Ramsay:** So are we to read the amendment?

**The Chair:** There is no amendment.

**Mr Ramsay:** What about 148? We're recommending we vote against this.

**Mr Bob Wood:** That's not an amendment, though.

**Mr Kormos:** We're opposed to this. This is part of the attack by this government on collective bargaining rights. They want to have their cake and eat it too. They wouldn't know fairness if it bit them on the nose, and section 67 illustrates that. They want to be able to make the rules, own the process and indeed change the rules as they go along. We're opposed to section 67.

**Mr Ramsay:** I concur with my colleague. Section 67 is going to stack the deck against the firefighters by the government appointing their own conciliation officers and board of arbitration. I think we know where they would rule when it comes to any of these decisions they're going to be forced to make. I would recommend and the Liberal Party would recommend voting against this section.

**The Chair:** Mr Wood?

**Mr Bob Wood:** We're in favour of it.

**The Chair:** Is there any further discussion? If not, I shall put the question. Shall section 67 pass?

**Mr Kormos:** Recorded vote, please.



**Ayes**

Flaherty, Guzzo, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos, Ramsay.

**The Chair:** Section 67 carries.

Sections 68 to 78, inclusive, have no amendments. Is there any objection to dealing with them as a group?

**Mr Kormos:** We'll be supporting sections 69 through 78.

**The Chair:** I'm sorry. We're dealing with 68 to 78, Mr Kormos.

**Mr Kormos:** We'll even be supporting 68.

**The Chair:** Thank you, Mr Kormos. Is there any further discussion before I put the question? Shall sections 68 to 78, inclusive, carry? Carried.

We are now proceeding to section 79. We have a government amendment, being item 150.

**Mr Bob Wood:** I move that subsection 79(1) of the bill be amended by striking out "person's duty" in the sixth and eighth lines and substituting "person's power or duty" in each case.

**Mr Kormos:** I understand what the amendment does but I'd like some reference — obviously there are certain duties and certain powers. If the PA could point out where the duties and powers are, obviously where the powers are, I'd appreciate it. I suppose section 74 might be one of the powers.

**Mr Bob Wood:** The short answer is, it's considered better drafting to say both "power" and "duty." To do more is to tell you more than is useful, I think.

**Mr Ramsay:** I just want to say that this section actually is very important for all firefighters across the province, whether they be professional, full-time firefighters or volunteer firefighters. Over the years there have been some civil suits that have been instigated against firefighters who have acted in good faith in trying to carry out their duty, in trying to save lives. I think these men and women who lay their lives on the line every day for us need some special protection and I think this is a very important part of the bill.

**The Chair:** Is there any further discussion in regard to the proposed government amendment? If not, all those in favour of the amendment? Carried.

I shall put the question. Shall section 79, as amended, carry? Carried.

We are now proceeding to sections 80 to 87, inclusive. They have no amendments. Is there any discussion?

**Mr Kormos:** If you would, Chair, we're prepared to support the following sections up to and including section 85.

**The Chair:** Okay. The question shall be, shall sections 80 to 85, inclusive, carry? They are carried.

We are now dealing with section 86.

**Mr Kormos:** I wonder if we could have some expansion on what 86 addresses; perhaps an illustration. It's clearly an indemnification and it's a very broad one. I appreciate that the word "accidentally" is in there, but I find it rather interesting, because even in an earlier amendment the government, for instance, took heed of circumstances wherein combustibles or accelerants might

be on a property. I think it strengthened the standard for the presence of those, to permit a business operation, let's say — combustibles or accelerants that would normally be there — recognizing that there's some element of risk.

I appreciate that this is historical as well. There's precedent in the existing legislation, as I understand it, and I have some experience with this section. So this is a very broad indemnification. I'm a little concerned about the fact that it would bar somebody from litigating even though there was causation on the part of another, albeit within the realm of accident.

**Mr Bob Wood:** Apparently the law as stated in the draft section 86 is as it's stood for about 200 years. That's not to say that changes might not be warranted, but we don't feel they should be done in this bill. This is no change and we don't want a change in this bill. That's not to say a case might not be made for change.

1550

**Mr Kormos:** Precisely. I understand that. That's why I acknowledge that this is a traditional section. It seems to me that it relates to a period in time when fire safety was simply not practical because of the nature of the construction of buildings, the absence of standards, that sort of thing. It simply says where "fire accidentally begins."

What bothers me about this is that, for instance, in modern building lots, especially in big-city, high-density building lots, you've got minimal side-yard clearances. Quite frankly, if I were a homeowner and my neighbour had a house that wasn't built to standards and as a result of that a fire emerged and attacked my house, damn it, I'd want to be able to litigate. I don't think that person should be indemnified because it says where the fire starts accidentally. The fire could very well start accidentally but you could be in a building where there's been a breach of the building code or other standards and that would cause the damage to my property or premises.

I appreciate the intent here. I realize this goes back to the days when there were a lot of wood structures, minimal safety standards, wood-burning stoves and so on, where fires were far more common, but I don't think this is relevant to 1997 when we should be encouraging very high standards for fire protection and fire control. I think you understand what I'm saying.

I think the difficulty here is "any fire accidentally begins." Once it is established that the fire itself was accidental, even though the negligence or breach of standards by that property owner caused the fire to spread and/or damage adjoining property, as long as that owner can say it was an accidental fire, "You can't hold me liable for breaches of building code or other standards; I'm off the hook" — I hope you understand what I'm saying here, Mr Wood — I don't think this is up to snuff.

**Mr Bob Wood:** The bad news is that we don't want to make changes in this bill on this point. I think the Ministry of the Attorney General has an interest in taking a look at this problem and would be interested in some of the points you've made. Certainly, when something's been around for 200 years it's well worth looking at. I'm not dismissing the points you've raised, but I am saying that we're not prepared to address them in this bill.

**Mr Kormos:** I should indicate, Chair, that I have concerns and I'm going to be voting against that.

**The Chair:** It's an interesting point, Mr Kormos. The difficulty is the insurance on a single-family home would accelerate substantially because they would then be insuring all the buildings around them. The San Francisco fire would have cost a lot of money.

**Mr Kormos:** But you see, I believe in wrongdoers accepting responsibility and indeed liability for their misconduct.

**The Chair:** Is there any further discussion in regard to the proposed government amendment? If not, all those in favour?

**Mr Bob Wood:** There's no government amendment.

**Mr Kormos:** Recorded vote, please.

**The Chair:** Oh, I'm sorry. We're dealing with it as is.

#### Ayes

DeFaria, Flaherty, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Bisson, Kormos, Ramsay.

**The Chair:** Section 86 is carried.

We're now dealing with section 87. Is there any discussion in regard to section 87?

**Mr Kormos:** Once again, I appreciate that this is an effort to modernize or update modes of service. I've got to tell you, Chair, in particular, subsection (2), regular mail — I suspect you know that service in this mode has caused a whole lot of grief to a whole lot of people. In view of the exceptional ways there are, even let's say with telephone facsimile, it is possible to determine that the recipient received it, at least to some extent. I'm asking if the parliamentary assistant can address this and indicate whether this is the new universal standard for service that's being built into all the legislation. Is this a boilerplate standard of service, and if not, in view of the incredible consequences that can occur by virtue of a process here, why something as risk-ridden as regular mail service would be maintained for the purpose of service when we've got inexpensive registered mail, when there's another form of mail delivery that the post office does —

**Mr Bob Wood:** Certified.

**Mr Kormos:** Yes, certified mail — why would regular mail even be considered any more?

**Mr Bob Wood:** Regular mail has been permitted under the rules of court for about 27 years. I think it's worked reasonably well. It certainly occasionally has problems, but considering the number of transactions using it, I think it's worked quite well. We're taking an approach here that is similar to the one used in the Ontario Court of Justice.

**Mr Kormos:** Once again, I think even if only one incident fouls up in a given year, it causes incredible grief to a member of the public, almost inevitably a member of the public, and I won't be supporting 87. I think the styles of service can be formalized without incurring great difficulties or even cost.

**Mr Gilles Bisson (Cochrane South):** Just a small matter: It's interesting that I happened to walk in in the

middle of debate on clause-by-clause on section 87, because I noted while reading the bill that in subsection (3), almost at the bottom, the second-last line, "person\$s" has a dollar sign through it. I realize that the government sees people as walking cash registers — it can go and take money out of their wallets at any time, cut their services and do all the wonderful things that Tories do — but I wonder if the parliamentary assistant can guarantee me that the dollar sign is going to be taken out of the word "person\$s" in section 87.

**Mr Bob Wood:** We're not going to take it out, we're going to shorten it to an apostrophe. It should be an apostrophe, you see. The short answer is yes, it will be corrected.

**Mr Bisson:** The short answer is, you will be taking the dollar sign out of people.

**Mr Bob Wood:** There's a lot in that I'm not going to respond to.

**The Chair:** Do you need an amendment for that or is that just proofreading? It's just editing.

**Mr Bisson:** I have one other question and it's very quick actually. Under subsection (3), we're going to say that if notice is sent by fax it's considered that the notice has been given by the next day. One of the bugaboos that I've got is that even though a lot of people have fax machines, at times they don't receive them. You've probably had the same problem in your office where, for whatever reason, there's a fax transmission that doesn't quite make it to your office once it's been faxed. Is there any kind of provision to get around that?

**Mr Bob Wood:** This has been in the rules of court for about eight years, something like that. Indeed the mail sometimes fails to deliver and the fax machines, for whatever reason, sometimes fail to deliver. Where that occurs, there are of course provisions and rules of court for rectification, and indeed here.

To come back to the question raised by both yourself and Mr Kormos, on balance this system has worked quite well. There is flexibility so that where error does occur, as it does, mechanically or whatever, rectification can take place.

**The Chair:** Is there any further discussion? If not, I'll put the question.

**Mr Kormos:** Recorded vote.

#### Ayes

DeFaria, Guzzo, Parker, Ramsay, Rollins, Ross, Bob Wood, Young.

#### Nays

Bisson, Kormos.

**The Chair:** Section 87 is carried.

We are now proceeding to section 88. There are four government amendments.

**Mr Bob Wood:** I move that clause 88(1)(a) of the bill be struck out and the following substituted:

"(a) respecting the operation and administration of fire departments and community fire safety teams established or appointed by an agreement made under section 3 and respecting the functions of community fire safety officers appointed by such an agreement;"



**Mr Ramsay:** Could we have the explanation?

**Mr Bob Wood:** This allows the Bill 84 provisions to capture the operation and administration of fire departments and community fire safety teams established or appointed by agreement, such as in unorganized territories. It provides flexibility for unorganized territories to deliver services through their local services boards or through other mechanisms.

**The Chair:** Is there any further discussion in regard to the proposed amendment? If not, I'll put the question. Shall the amendment carry? The amendment is carried.

We are proceeding to item 152.

1600

**Mr Bob Wood:** To make sure, does everyone now have 152-R? Why don't I read this and hopefully there will be copies available.

I move that section 88(1) of the bill be amended by adding the following clause:

"(a.1) prescribing persons or organizations for the purposes of subsections 3(1) and 4(2)."

It flows from earlier discussions.

**Mr Kormos:** That's 3(1) and 4(2), as amended, as I recall them, because the amendments brought in the persons or organizations which the PA was challenged on as being the wide-open door to privatization. Is that correct, parliamentary assistant?

**Mr Bob Wood:** They are as amended.

**Mr Kormos:** Yes, but that was the challenge, that these were —

**Mr Bob Wood:** Without repeating the debate, they are as amended.

**Mr Kormos:** They're opening the door to privatization. That's why I'm opposing this amendment.

**The Chair:** If there's no other discussion, I'll put the question. Shall the amendment carry?

**Mr Bisson:** A recorded vote.

#### Ayes

DeFaria, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Bisson, Kormos, Ramsay.

**The Chair:** The amendment is carried.

We're moving to item 153.

**Mr Bob Wood:** I move that clause 88(1)(h) of the bill be struck out.

**The Chair:** If there are no questions or discussion in regard to the amendment, shall the amendment carry? The amendment is carried.

Item 154.

**Mr Bob Wood:** I move that clause 88(1)(k) of the bill be amended by striking out "firefighters" at the end and substituting "firefighters, including full-time, volunteer and part-time firefighters."

**Mr Kormos:** The important word here is "volunteer." No, I'm sorry, "part-time firefighters" not "volunteer," because when I go back to the definitions I see "firefighter" means a volunteer firefighter, so the word "volunteer" here is redundant. The essential word here is "part-time." This is nuts, because much of this hearing

has been devoted to strong evidence that part-time firefighters are simply not the calibre of full-time, professional firefighters, and for that reason we're opposing the amendment. You're trying to sneak it in here, because you threw in "volunteer," and you didn't have to because "volunteer" is redundant because "firefighter" means volunteer firefighter. But you're trying to dress this up and you thought you were going to grease it up and sneak it through. But no, it didn't work, and we're voting against it.

**Mr Bisson:** A short question to the parliamentary assistant: What is it about full-time firefighters you don't like?

**Mr Bob Wood:** Nothing.

**Mr Bisson:** Then the subsequent question is, why do you want to introduce the idea of part-timers?

**Mr Bob Wood:** This is a question I was asked earlier and the answer is we want to give municipalities the flexibility to provide the service in the way they think is most effective and efficient.

**Mr Bisson:** Would you construe that as meaning that down the road, as this legislation is passed, you will see a decrease in full-time firefighters and an increase in part-timers?

**Mr Bob Wood:** I wouldn't want to speculate on what municipalities would do.

**Mr Bisson:** Try.

**Mr Bob Wood:** I never speculate. It gets me into trouble.

**Mr Bisson:** Especially with the Premier. Let me try it this way: Would it be safe to say that the introduction of this particular concept in the bill, part-timers, would mean that municipalities that now have full-time fire departments that employ full-time firefighters would rely less on full-time firefighters as the days go on and bring on more part-timers?

**Mr Bob Wood:** I think it depends entirely on what they feel, working with their firefighters and their community, is going to provide the best service in the most efficient way possible.

**Mr Bisson:** All right. Let me try this again: Would you say that municipalities with this legislation will be hiring part-time firefighters?

**Mr Bob Wood:** I'm not going to speculate.

**Mr Bisson:** Then why would the government introduce the concept of part-time firefighters if you're not willing to speculate if municipalities are going to use it?

**Mr Bob Wood:** I'm not proposing to engage in speculation. We're giving them an option which, if they think it applies to their community, they can use.

**Mr Bisson:** Let me ask you this then: Was it the government's idea to introduce part-time firefighters or was that a request of the municipalities?

**Mr Bob Wood:** It was the government's idea to introduce this bill. We listened to everyone and came to what conclusions are set out in the bill.

**Mr Bisson:** So I can conclude that it is the government's idea to introduce the concept of part-time firefighters.

**Mr Bob Wood:** I would conclude that we concluded that it was a good idea.

**Mr Bisson:** I'm going to ask the question straight. I conclude from what you've said that it's the govern-

ment's idea to introduce the concept of part-time firefighters in this bill. It was your idea, the government's.

**Mr Bob Wood:** It was a conclusion we came to after hearing the views of all who expressed interest in expressing views.

**Mr Bisson:** If that's the case, if I'm the government, I've introduced this for a reason. Would you say the government introduced that for a reason?

**Mr Bob Wood:** I would.

**Mr Bisson:** All right. Would that reason be to allow municipalities to hire part-timers?

**Mr Bob Wood:** It might well be.

**Mr Bisson:** I would think so; would it not be?

**Mr Bob Wood:** I think that's a fair conclusion.

**Mr Bisson:** The point that I'm getting at is — and I can get off this question real quick and move the committee on if you answer the next question — in the future, as this legislation takes hold, is it safe to assume that municipalities will start hiring part-time firefighters?

**Mr Bob Wood:** I'm not going to speculate on what they're going to do. The whole plan is to give them the flexibility to make decisions that are right for their community.

**Mr Bisson:** Do you think that a community like Timmins or Thunder Bay or Sudbury or Windsor or London or Kitchener-Waterloo — I can name them all but I won't — will be utilizing this legislation to hire part-time firefighters?

**Mr Bob Wood:** I hesitate to repeat what I've already said. I'm not going to speculate on what they think is right for their community. The whole idea of this is to give them the flexibility they say they need — and I think they're right — to do the job in a way that's right for their community, and for that they are responsible to their voters. We're giving them responsibility they have asked for, and they're getting it, and they're responsible to their voters for doing the right thing.

**Mr Bisson:** So you think it's important to give the municipalities the flexibility to be able to hire part-time firefighters?

**Mr Bob Wood:** We do.

**Mr Bisson:** And you think that's a good idea?

**Mr Bob Wood:** We do.

**Mr Bisson:** Hey, that was quite an admission on your part. That was pretty good. I'll leave it at this point because I don't want to belabour it any more than it needs to be, although I wish I could, because I think this is a step in the wrong direction.

**Mr Kormos:** It's a free country.

**Mr Bisson:** Oh, good. But I just come back to the point where I started: I think we heard sufficient testimony in these hearings across northern and southwestern Ontario and Toronto and other places where all kinds of people came before us and spoke, almost presenter after presenter, on the importance of having, first of all, full-time professional firefighting departments in municipalities so that when an accident or fire does happen, we're able to respond on time. I come back to what everybody has told us, which is, if you introduce the idea of less full-time firefighters in municipalities, it will have an effect on the response time.

I guess the last question I will ask you is: Do you think this will lead to a lessening of response times on the part of fire departments in this province?

**Mr Bob Wood:** I think it would lead to an improvement.

**Mr Bisson:** That's interesting. I disagree with you wholeheartedly. I don't see how that would be possible.

**Mr Bob Wood:** If you give more flexibility, if local conditions warrant it, they should be able to improve in the response times.

**Mr Bisson:** Hang on a second.

**Mr Bob Wood:** We have confidence that the municipalities are going to do the right thing. We realize that others would do this differently, and that's a legitimate point of view.

**Mr Bisson:** This is challenging now. You think, give the municipalities power and they might do the right thing, but in the case of the cities of Toronto, you took away all the power the municipalities had because you thought they were doing a bad thing. I'm a bit confused here in the logic of the government.

**Mr Bob Wood:** I'm not going to enter into the Bill 103 debate.

**Mr Bisson:** I understand that and it's not the time or the place, but municipalities have all kinds of pressures on them. Would you say that's true? The federal government's downloading on to you and you're downloading on to the municipalities. Would you say municipal governments have more fiscal pressures now than they did 10 years ago?

**Mr Bob Wood:** I think they have more responsibilities and I think they have the means to meet those responsibilities. They say they're ready to do it and I think they're right.

**Mr Bisson:** Would you agree that municipalities have larger fiscal pressures on them now than they had 10 years ago?

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**Mr Bob Wood:** I think they have larger responsibilities and more means to meet those responsibilities.

**Mr Bisson:** I'll take that as a "yes." It goes back to the point that what this legislation does is allow them to trim dollars out of their fire services budget. Right?

**Mr Bob Wood:** It allows them to improve service.

**Mr Bisson:** Let's try this again: Will this legislation and this particular clause, as others, in the introduction of the idea of part-time firefighters allow municipalities to cut the wage component of their firefighting departments?

**Mr Bob Wood:** They can do that now if they choose to.

**Mr Bisson:** If you eliminate a position entirely, yes. I don't argue with you there. What I'm saying is that if you have now, as in the city of Timmins, a brigade of six full-time firefighters, with the captain, this legislation allows the introduction of part-timers. Theoretically, the municipality could decide, "We're going to have two or three full-timers and the rest of them are going to be part-timers; we'll call them in when we need them." Would you say that would save the municipality some money?

**Mr Bob Wood:** There are all kinds of permutations and combinations that one can use to organize any group that performs a function. What we're doing is giving the



municipalities the flexibility to do that the way they think is best.

**Mr Bisson:** I hear you and I respect what you're saying, but the simple question is, will this legislation give the municipalities the ability to save some dollars in their staff budgets?

**Mr Bob Wood:** Certainly, if that's what they choose to do. No doubt about it, they can reduce their fire budget. What we are hopeful they're going to do is provide protection that's right for their community. As you know, in the bill we permit the fire marshal to address that issue and the cabinet to make binding orders, if that's needed, to ensure adequate fire protection, which is an improvement, I think, from the current situation.

**Mr Bisson:** There are parts in this bill that quite frankly are a step in the right direction. I don't argue with you on that side, on the education component of what we're doing in fire services; I think firefighters and the public and the opposition parties have said that. We haven't got a problem there.

What I'm talking about specifically is where you're changing the entire bargaining relationship of full-time firefighters. I ask you the simple question again: Will the changes that you're effecting through this legislation effectively allow municipalities to cut staff dollars out of their fire departments across this province? Will it or will it not?

**Mr Bob Wood:** They can do that now; they can do it in the future. But they're responsible to their voters for doing that and they're also ultimately now responsible to the government of Ontario for providing adequate fire protection.

**Mr Bisson:** The problem, though, is that in a community like mine —

**Mr Bob Wood:** May I add something?

**Mr Bisson:** Go ahead.

**Mr Bob Wood:** This is a point I made before but it may have been overlooked. There are two different approaches to resolving this problem. Our approach is to say, "We'll give you flexibility and we're going to monitor what you're doing to see whether or not the fire protection in a given community is adequate." That's the approach we're taking. Others would say, "No, you've got to dictate structure to them to a greater extent than this bill does."

**Mr Bisson:** I agree.

**Mr Bob Wood:** That's the other point of view, which has been well expressed by yourself and other members of the opposition. It's a difference of view. That's really what it comes down to. We think our method is going to provide the best fire protection and the most fire protection at the most affordable cost. Others take a different view as to how to accomplish it. It's an unanswerable question until we see how it works.

**Mr Bisson:** I would argue it's more than a difference of point of view; it's a difference in ideology. I submit to the view or the ideology that fire services are just that, an essential service in our community. If we are serious as municipalities and if we are serious as a provincial Legislature in making sure that citizens have the best possible protection against injury or death by way of fire, it's going to cost us some money. To do that we need to

legislate what municipalities do when it comes to creating fire departments. I have no problem in saying that.

What I have a problem with is that this bill allows — you're right in one thing. A municipality could decide tomorrow to try to reduce the number of fire services, but there are mechanisms for firefighters and others concerned to bring that issue to a formal hearing to make sure that adequate services are provided and that by reducing staff we don't put the public safety in jeopardy.

What this legislation does is allow municipalities across this province to say: "Come next year or the year after or the year after that, hey, we've got to save \$300,000. One of the ways we're going to do it is to cut X number of full-time firefighters in our departments and replace them with part-timers and only call them in when we need them." Don't you see that's what this legislation could lead to?

**Mr Bob Wood:** The view you've expressed goes back to the point I made. We would do it the way we're doing it; you would say you've got to tell them how to set up their fire department, in effect. It's a difference of view. I can't say more than that.

**Mr Bisson:** I shouldn't ask you this question because it's not fair, but just to make this point: I was at the Timmins airport this morning coming in and was talking to the manager of the airport services and because of the decisions of the federal Liberal government to download the responsibility of airports on to municipalities, we're now in the position in the city of Timmins where they've made the decision that you're no longer going to have any fire services at the airport in the city of Timmins. They're closing the fire department right down.

The argument I get from city leaders in talking about this is, "We've never had an airplane crashing or a major fire in the city of Timmins in 35 years." I agree. That's great. I hope we never get one. Especially as a frequent flier, I wouldn't want to up my chances of being on one of those.

But the point is that if we want to make sure that the travelling public in the city of Timmins has a half-decent chance if there's a fire on board an aircraft while it's on the ground, you have to have some fire department, you have to have some capability of responding to the fire. In the case of the city of Timmins, response time from the firehall downtown to the airports is eight minutes. In eight minutes, everybody's gone. Nobody's going to survive a fire in an aircraft for eight minutes.

What I don't like about this legislation, just like what's happened federally with the abandoning of the responsibility of airports, is we're taking away the level of service and we're jeopardizing the safety of citizens for the fact of trying to save a dollar. I don't have an argument where governments have to try to balance budgets, but I think at one point we have to ask ourselves the question, "What is an adequate level of services?" and I think this legislation brings us right down the wrong direction.

Fire or six years from now — I don't even think that long — I think a year or two from now, we're going to see fire departments across this province reduced substantially from where they are now and nobody's going to

argue that's going to increase services; that will decrease services.

**The Chair:** Further discussion in regard to the amendment?

**Mr Kormos:** Recorded vote.

**Ayes**

DeFaria, Flaherty, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

**Nays**

Bisson, Kormos, Ramsay.

**The Chair:** The amendment is carried.

I shall now put the question. Shall section 88, as amended, carry? Did you want a recorded vote? No? Section 88, as amended, is carried.

**Mr Kormos:** Look, we're stuck with the hard realities of the government's policy in this area, one of privatization and encouraging part-timers. Here we are a few sections away from the end of the bill and I suppose we recognize that this government's got its agenda; it's going to forge ahead. At the end of day, if they're going to have part-time firefighters like they seem hell-bent on having, the prospect of having standards for them remains desirable.

My concern is that those standards, when they're regulated standards, as compared to legislated, are going to be far lower than what the standards are for full-time professionals. The fact that there's a standard-setting process will at least give us some entry point to start to generate discussion about that again.

**The Chair:** We are now dealing with a new section 88.1, which is Mr Ramsay's motion.

**Mr Ramsay:** I move that the bill be amended by adding the following section:

"Act to prevail over municipal bylaw

"88.1 This act has effect despite any bylaw or regulation of a municipality relating to its fire department."

I believe this is self-explanatory and I believe it also reflects a government amendment coming forward also.

**Mr Bob Wood:** It's our opinion it's always dangerous to get into legal opinions in such matters. We think it's unnecessary, as provincial legislation would supersede the municipal bylaw anyway. We agree with what's attempted here; we don't think it's necessary the way it's being done.

**Mr Kormos:** We support the amendment and indeed have tabled one with identical language. I think it's important, and I'm going to be speaking to the government's motion for a new section 88.1, which is a very difficult one. This is very distinguishable from the government's 88.1. It's an entirely different consideration. I think it's an important one. Firefighters should be able to rely upon their provincial legislation as the ultimate standard, and the failure to include 88.1, as proposed by Mr Ramsay, could well create muddled ground. We'll be supporting 88.1, as proposed by Mr Ramsay.

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**The Chair:** Is there any more discussion with regard to Mr Ramsay's proposed amendment? If not, I shall call the question.

**Mr Kormos:** Recorded vote, please.

**Ayes**

Bisson, Kormos, Ramsay.

**Nays**

DeFaria, Flaherty, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost. I assume item 156 will be withdrawn.

**Mr Kormos:** Withdrawn, please.

**The Chair:** Thank you.

**Mr Bob Wood:** Item 157-R, of which I take it everyone has copies.

I move that the bill be amended by adding the following section:

"Municipal bylaws superseded

"88.1 A regulation, including the fire code, supersedes all municipal bylaws respecting fire safety standards for land and premises."

We don't think you have to have a provision in the law to say the law supersedes municipal bylaws. On the other hand, we do think you need a provision saying that regulations supersede municipal bylaws. This amendment is similar to subsection 19(4) of the Fire Marshals Act and allows for consistency across the province.

**Mr Kormos:** Again, I understand what the government is trying to do here, but language like "supersedes," what that in effect means to me — I'd like the parliamentary assistant to explain how it isn't the case — is that a municipality cannot set standards that are higher than the fire code or other regulations setting fire safety standards or building code standards. Why would the government want to be in that position? If a municipality deemed it appropriate to set higher standards than the provincial standards, why wouldn't a municipality be allowed to do so?

**Mr Bob Wood:** It depends on what the regulation says. If the regulation permits them to do that, they can; if it doesn't, they can't. My prediction would be — I said I wouldn't speculate, so I probably shouldn't — I don't think we're going to discourage municipalities from having higher standards than the provincial ones. The answer to your specific question is it depends entirely on the wording of the regulation.

**Mr Kormos:** Let's get this. A regulation, including the fire code — we're talking about provincial regulations here — "supersedes all municipal bylaws respecting fire safety standards for land and premises." So if the building code requires, and I'm just picking figures out of my head, for a certain hour rating for fire stop, for drywall in a hallway, if a municipality wanted to have an even higher rating, since the regulation supersedes it, they couldn't enforce it within their municipality.

If you have a provincial standard, God bless, and if people don't meet the provincial standard, they're in violation of the provincial standard. If you include this section, a person is going to argue this as a defence to a violation of a municipal standard, whereas if you allow a municipal standard and a provincial standard to coexist, a person can choose to meet one of the standards and risk violating the other, or none of the standards and risk



violating both, or the person can choose to meet both of the standards, albeit one is higher than the other, and then violate neither.

You talk about municipal flexibility, Mr Wood. You talk about it. Why would the province not want municipalities — and again, I don't want to speculate on when, where and why a municipality may want to do it —

**Mr Bisson:** I will.

**Mr Kormos:** God bless. Why would you want to infringe on their right to set standards that from time to time could be even in excess of what are probably quite good provincial standards? The word "supersedes" is the problem here. It's perfectly permissible. Why wouldn't you just have provincial standards coexisting with municipal and then the property owner, building builder or building owner can choose to meet both standards, none or one, and risk whatever consequences flow.

**Mr Bob Wood:** The answer to your question is, it depends on how the regulation is worded. We have to be in a position, however, to enforce minimum standards across the province and that permits us to do this. If the regulation's well worded, it will not prevent municipalities from imposing higher standards, if that's what we choose to let them do.

**Mr Kormos:** But please, sir, if you've got a provincial building code, that's the provincial standard, and people who violate are in violation of that code.

**Mr Bob Wood:** It depends on the wording in the regulation.

**Mr Kormos:** My position is very clear; your position is your position. I understand that it's your position. I don't buy it yet.

**Mr Bisson:** I've got to ask the question: I take it what you're saying through this amendment is you want to make sure that there's a minimum level of regulation when it comes to the fire code. Right?

**Mr Bob Wood:** What we're saying is that we want to be in a position where the municipalities cannot undercut the minimum provincial standards and you have to give the kind of powers we do under this subsection to permit that.

**Mr Bisson:** I don't disagree with you on that point, but I'm looking for a little bit of clarification of where the government is coming from. In this case, you're saying you want to make sure there's a minimum standard and that standard be enforceable to make sure we meet certain regulations within the fire code, right? A nod up and down means yes?

**Mr Bob Wood:** It means yes.

**Mr Bisson:** But in the case of the part-time fire-fighters, when we talked about that a little while ago, you were saying, "We think we need to give municipalities the flexibility." What gives here? It's like cherry-picking. You're picking and choosing where you want to give municipalities flexibility. Either you give them flexibility or you don't. Why is there a contradiction here?

**Mr Bob Wood:** There is no contradiction. We are enforcing the minimum standards to the powers given to the fire marshal and to the provincial cabinet in the case of the standards. By that, I mean the qualifications of those fighting fires. We're doing it by regulation in the case of the fire code. We're setting the standards in both cases.

**Mr Bisson:** I don't disagree that the province has to set standards as far as regulations are concerned, and you've got to make sure that you'll be able to enforce those regulations. But I come back to the point that it seems to me that the government, not only in this legislation but in all other legislation, is saying on the one hand, "We want to give municipalities the flexibility," but you pick and choose to your liking and to your advantage where you want to give them that flexibility.

**Mr Bob Wood:** We give them flexibility where we think it'll be for the benefit of the people, and we enforce provincial standards where we think that's necessary.

**Mr Bisson:** That's the point. Just to come back to the first point on 88.1, the one that my colleague the member for Welland-Thorold raised, am I going to go to the councils of the cities of Timmins, Matheson, Iroquois Falls, some time after this legislation is passed and say to them, "In the event that you're planning on making sure that the fire regulations in your municipality are above the standards set out by the province, don't bother; you're not going to be able to do it"? I need to know so when they ask me I can give them the answer, because I'm not sure now. I'm a bit confused as to where you're going with this.

**Mr Bob Wood:** I don't want to repeat what I've already said, but the answer is, it depends on the wording of the regulations cabinet passes. I think I would encourage those who are interested to make representations now to the minister as to any changes they think are needed in the regulations.

**Mr Bisson:** Let me make it easier this way: Let's say the fire code deals with adequate exits as far as being able to get people to evacuate a building in the case of an emergency is concerned and, for whatever reason, the provincial fire code is not found to be sufficient, for whatever reason the municipality or the city of Timmins comes to that point of view. If they decide to go above and beyond that, will they be precluded?

**Mr Bob Wood:** It depends on the wording of the regulation. I can't say more than that. If the regulation prevents them from imposing a higher standard, they can't impose a higher standard.

**Mr Bisson:** Help the commonsense thing happen here. I thought that's what you guys ran on. The municipality or the city of Timmins says: "We want to provide for better and more adequate exits from a building in the case of fire. We want to go above and beyond what the provincial fire code has to say." Therefore, if they go ahead and do it, will the municipality be precluded? Yes or no?

**Mr Bob Wood:** It depends on the regulations passed under this law.

**Mr Bisson:** Can I ask your legal counsel?

**Mr Bob Wood:** No.

**Mr Bisson:** I just need to know. I'm not being facetious here.

**Mr Bob Wood:** That's the answer. It depends what the regulations say.

**Mr Bisson:** The problem with that is the regulations are written by the cabinet. That's my problem. Once we get this out of committee, you're not going to get another kick at the can as a member of this assembly. The only

time you'll get a kick at the can is if you sit at the cabinet table or you happen to be the Solicitor General. One day I'm sure we will be back with an NDP cabinet in this province, but I don't want to wait that long. We could be waiting two or three years.

1630

**Mr Bob Wood:** It could be a long wait.

**Mr Bisson:** Two or three years is a long time, in my view, and I don't like the idea that you're saying the cabinet of Ontario can write a regulation that precludes a municipality from exceeding the provincial standard. That's what you're telling me here.

**Mr Bob Wood:** I think that kind of power is needed in order to prevent them from undercutting the provincial standard.

**Mr Bisson:** I have no problem with you there. I have no difficulty if the parliamentary assistant is saying that cabinet will have the ability to write regulations and the municipalities cannot lower that standard. If that's what you're doing, I haven't got a problem.

What I hear you saying and what I see this saying is that the cabinet of Ontario, for the next two or three years, until there's a change of government, will have the ability to write regulations applying to the fire code and preclude municipalities from exceeding that standard.

**Mr Bob Wood:** If that's what they choose to do, that's what they can do.

**Mr Bisson:** It seems to me that's an awful lot of power to be giving the cabinet. I'll let my friend from Welland-Thorold go at it.

**Mr Kormos:** Simply enough, this amendment is going to cause real grief down the road. We're going to be voting against it. We're calling for a recorded vote, please.

#### Ayes

Defaria, Flaherty, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Bisson, Kormos, Ramsay.

**The Chair:** The amendment is carried.

We are now dealing with sections 89 to 91. There are no amendments in regard to those sections.

**Mr Kormos:** I can indicate we'll be supporting these sections.

**Mr Bob Wood:** Would there be interest in dealing with them together, Mr Chairman?

**The Chair:** I am dealing with them together.

**Mr Bob Wood:** Okay, good.

**The Chair:** Shall sections 89 to 91, inclusive, carry? They are carried.

We are proceeding to section 92. There is an opposition amendment.

**Mr Ramsay:** I move that clause 3(e) of the Labour Relations Act, 1995, as set out in section 92 of the bill, be struck out and the following substituted:

"(e) except as provided in part IX of the Fire Protection and Prevention Act, 1997, to a person who is a firefighter within the meaning of part IX of that act."

This is to bring clarification, in referring back to section 41, which is the definition section of part IX, of

"firefighter." I believe the third party and the government have similar amendments.

**Mr Kormos:** We support this amendment and indeed have tabled one in identical language. Quite frankly, it's superior to the amendment that has been tabled by the government, which speaks only of subsection 41(1). Reference to part IX is a much sounder basis for the purpose of section 92 in the amendments to the Labour Relations Act.

I'm encouraging government members to recognize that they've in effect tried to move the same thing, but the language here, being inclusive of all of part IX and requiring consideration of all of part IX and its spin from section to section, is a preferable one. I really would hope Mr Wood would recognize that and encourage his colleagues to support Mr Ramsay's amendment. It achieves the purpose in a much more effective way than does the mere reference to 41(1).

**Mr Bob Wood:** We feel our amendment is worded better. This amendment would not catch the management-excluded people, who would then be able to organize under the Labour Relations Act. The government amendment will exclude all firefighters from the Labour Relations Act. So we're not going to support the Liberal motion.

**The Chair:** Is there any further discussion in regard to Mr Ramsay's motion to amend?

**Mr Kormos:** Recorded vote, please.

#### Ayes

Bisson, Kormos, Ramsay.

#### Nays

Defaria, Flaherty, Guzzo, Parker, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 159: I believe you're withdrawing that, Mr Kormos; it's identical.

**Mr Kormos:** Yes..

**The Chair:** Item 159 is withdrawn.

We have a government amendment, item 160.

**Mr Bob Wood:** I move that clause 3(e) of the Labour Relations Act, 1995, as set out in section 92 of the bill, be struck out and the following substituted:

"(e) except as provided in part IX of the Fire Protection and Prevention Act, 1997, to a person who is a firefighter within the meaning of subsection 41(1) of that act."

This amendment clarifies that the Labour Relations Act only applies to a firefighter to the extent that the part IX provisions of Bill 84 allow, which in essence is what I said earlier.

**The Chair:** Is there any discussion in regard to the amendment? If not, I'll put the question. Shall the amendment carry? The amendment is carried.

If there's no discussion, shall section 92, as amended, carry? That section is carried.

If there's no objection, we shall now deal with sections 93 to —

**Mr Kormos:** Chair, if I may, I've no quarrel at this point with you calling the balance of sections, moving them simultaneously, but Mr Wood is undoubtedly aware



that there has been some concern about the repeal of the Lightning Rods Act. In Fort Erie, one of the few lightning rod manufacturers I believe has corresponded with Mr Wood — he certainly has with me — expressing concern about the repeal of the Lightning Rods Act and his concern about the forfeiture or abandonment of standards for lightning rod manufacturers.

I know at first blush this may seem almost whimsical to a whole lot of folks, but I tell you, lightning rods are in frequent use, in common use, especially in the farm and rural community. If I can ask, Mr Wood, what was behind the repeal of the act, if you could just flesh that out?

**Mr Bob Wood:** We see that as micromanagement that's no longer required. We think people understand that they have to take reasonable precautions to avoid fire and to contain fire, and that act is not required any more. We think it's outdated, in essence.

**Mr Kormos:** If I may, we're dealing with section 93, which is the last section. I would ask that you read up to and including section 101, because I'm going to express opposition. While we're here, can you fill us in on — I trust the Hotel Fire Safety Act is now entailed in the building code, and everything that's relevant out of the Hotel Fire Safety Act and the Egress from Public Buildings Act is in the building code. Is that 100% accommodated within the building code?

**Mr Bob Wood:** And the fire code, yes. To answer your question more generally, we're getting out of the separate acts and trying to put them into one understandable manual.

1640

**Mr Kormos:** The Accidental Fires Act is the section we spoke about a few minutes ago.

**Mr Bob Wood:** It's now incorporated into this act.

**Mr Kormos:** The indemnification section was in the Accidental Fires Act.

We're prepared to support sections 93 through 101, inclusive.

**The Chair:** Shall sections 93 to 101, inclusive, carry? All those in favour? Carried.

We are now dealing with section 102, the repeal of the Lightning Rods Act.

**Mr Kormos:** I've heard the PA's explanation in that regard. It's incredible. All the talk we had about fire prevention and fire safety, that the government tossed around during the stickhandling of this act through committee, and then we've got the dismissal of the Lightning Rods Act as being a mere issue of micromanagement, as Mr Wood puts it.

The whole fire safety code is about micromanagement, and all positive stuff — the requirement for smoke detectors in public and residential buildings. In the building code, the fire safety code, we're talking about very complex standards, yes, to build in minimum standards to protect against fires. It was very clearly brought to my attention that the Lightning Rods Act is part of what created effective standards for lightning rod manufacturers to ensure that homeowners, property owners, wouldn't be bilked by scam artists or by people building less than adequate systems.

We're opposing the repeal of the Lightning Rods Act.

**Mr Ramsay:** If I could add to the record a historical note on that, I was just mentioning to one of the staffers that I was a bit concerned about that also. I think it would be very prudent for people living in rural areas, where houses such as I live in stand alone, away from other buildings, to equip themselves still today with lightning rods. What will happen — and it happened to me one time — is lightning will hit, as you know, the tallest object. If you have trees around a house, it will enter the house to seek ground. The best ground nowadays is an electric system. It will go through all the circuits of the house. With today's sensitive electronic equipment, it would be very prudent to have a lightning rod system on a house.

Ironically, you probably don't need it on a barn any more, because most barns built after the war have their tin roofs directly grounded through a wire system; really don't need the lightning rod. But for a non-metallic surface it's probably a good idea. It's sort of sad to see this, especially in the days of sensitive electronic equipment in a home. If you are in a high-storm-incident area, it's probably a wise thing still to have a lightning rod on a house.

**Mr Bob Wood:** I would add that in repealing this act we're certainly not diminishing the importance lightning rods have to fire prevention, but we feel this matter's better dealt with under the building code than the fire code.

**The Chair:** Is there any further discussion in regard to section 102?

**Mr Kormos:** Recorded vote.

#### Ayes

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Kormos, Ramsay.

**The Chair:** The next section is section 103. Is there any discussion?

**Mr Kormos:** Recorded vote.

#### Ayes

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Kormos, Ramsay.

**The Chair:** The section is carried.

Section 104: Shall the short title carry?

**Mr Kormos:** Recorded vote.

#### Ayes

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

#### Nays

Kormos, Ramsay.

**The Chair:** It is carried.

The next question is, shall the long title of Bill 84, as amended, carry?

**Mr Kormos:** Recorded vote, please.

**Ayes**

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos.

**The Chair:** The long title is carried.

The next question is shall Bill 84, as amended, carry?

**Mr Kormos:** Recorded vote.

**Ayes**

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos, Ramsay.

**The Chair:** The bill, as amended, is carried.

The last question: Shall Bill 84, as amended, be reported to the House?

**Mr Kormos:** Recorded vote.

**Ayes**

DeFaria, Flaherty, Parker, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos, Ramsay.

**The Chair:** I am authorized to report to the House. I thank you very much.

The subcommittee will be dealing immediately afterwards with the scheduling of Bill 105, which is proposed to be dealt with on May 12 and 13, the two days of hearings remaining. Otherwise, this committee is adjourned at the pleasure of the Chair.

*The committee adjourned at 1646.*





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## Official Report of Debates (Hansard)

Monday 12 May 1997

## Journal des débats (Hansard)

Lundi 12 mai 1997

### Standing committee on administration of justice

Police Services  
Amendment Act, 1997

### Comité permanent de l'administration de la justice

Loi de 1997 modifiant la loi  
sur les services policiers



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 12 May 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 12 mai 1997

*The committee met at 1531 in room 228.*

## POLICE SERVICES AMENDMENT ACT, 1997

LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

WATERLOO REGIONAL POLICE  
ASSOCIATION

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen. This is a continuation of the hearings on Bill 105, the Police Services Amendment Act, 1997. Our first presentation is by the Waterloo Regional Police Association, Mr Ted Thornley, president. Welcome, and I'd ask you to proceed.

**Mr Ted Thornley:** Good afternoon. My name is Ted Thornley. I am the president of the Waterloo Regional Police Association and a director of the Police Association of Ontario. I have been a police officer with the Waterloo Regional Police Service for the past 24 years and have served as the local association president since 1988.

I am accompanied this afternoon by Mr Dave Griffin, the administrator of the Police Association of Ontario, former administrator of the Peel Regional Police Association and former police officer with the Peel Regional Police Service; also Mr Frank Dawe and Mr Bob Reay, both of whom are veteran police officers with the Waterloo Regional Police Service and who each occupy executive officer positions on the board of directors of the Waterloo Regional Police Association.

The Waterloo Regional Police Association represents the interests of nearly 500 sworn police and approximately 170 civilian support personnel who jointly deliver a police service to the 425,000-plus citizens of the regional municipality of Waterloo.

Police associations in this province have now realized the importance of proactive involvement wherever new legislation or proposed amendments, be it federal or provincial, are impacting on their membership. There has never been greater reinforcement of our concern than the process or the resulting amendments to the Police Services Act in 1990 and now the further review and proposed changes to the act contemplated in Bill 105.

Regrettably, the day has long passed when our members could remain mute but also secure in the belief that

a competent and prudent government in a democratic society would support and aggressively protect the personal rights and interests of a police officer serving a community. Given a somewhat unpredictable and often hostile environment, an announcement of Police Services Act amendments now serves as a rallying cry for police associations to rise in defence of their members.

The influence of special interest groups and the apparent lack of reliable information cannot be underestimated. Accordingly, police associations have risen to meet with politicians in forums such as this to provide information and express the views of their membership. This afternoon, Mr Chairman, we are following up on our obligation to you and the members of this committee to ensure you understand the concerns of the front-line police personnel we represent.

Your committee heard from a number of our association colleagues on the many issues arising from Bill 105 during the week of March 17. Time constraints have required that presenters isolate issues and speak to them specifically, notwithstanding other concerns that each may have. In general terms, we are expressing our support for the positions which have been presented by other rank-and-file police associations which collectively represent the province's front-line police officers.

This afternoon our association intends to focus its comments on the discipline process, but more specifically the adjudication of non-serious complaints as proposed in Bill 105.

Radical changes to the discipline process, for obvious reasons, have been identified by front-line officers as cause for grave concern. Injudicious change to this aspect of the Police Services Act can potentially expose a front-line police officer to a heightened fear of reprisal and the inability to perform duties free of inappropriate restriction or interference. I am unaware of any other factor capable of causing more havoc to the individual rights of a police officer or the fair and impartial delivery of police service to the citizens of this province.

I am truly bewildered and rather sceptical of the rationale for the government removing itself from the oversight of non-serious misconduct in favour of the more costly and time-consuming grievance arbitration process as proposed in Bill 105. This represents a substantial departure from the status traditionally afforded a police officer as an office holder and places an officer in the scope of the normal employee-employer relationship.

I was present on March 17 during the committee briefing and have since reviewed the Hansard publication where the assistant deputy minister, Mr Fred Peters, conveyed the apparent logic behind this particular change in the act. Mr Peters informed the committee that the

changes were intended to address the distinction between behaviour that should be properly considered as part of the employee-employer relationship as opposed to behaviour that may be associated with the discharge of the duties of the office. This concept characterizes non-serious misconduct in the terms of an employee-employer relationship and serious misconduct as related to the duties of the office.

My personal experience discloses that serious and non-serious misconduct are rarely, if ever, delineated between employer-employee issues and those related to the duties of the office. In fact, misconduct described as employee-employer-related is most often so closely related and interwoven with the duties of the office that there can be no distinction. In any event, given that the proposed amendments would also grant the chief of police arbitrary powers to make such a determination, the distinction will be at the discretion, or rather the whim, of the chief.

I will reserve further comment on the labour relations model, as it has been dubbed, until later, but I will touch briefly on a number of other factors, although not intended to be a complete list, which further exacerbate our concern with the non-serious-complaint process.

Unsatisfactory work performance: In addition to the code of offences, Section 75 proposes a basket clause called "unsatisfactory work performance." This will allow a chief of police to discipline an officer for some undefined misconduct that is not found in the current code of offences. This is of particular concern now that cash-strapped municipalities control police services boards and also receive revenues from Provincial Offences Act tickets. Enforcement quotas are very likely to replace the common-law discretionary power of a police officer. The discriminatory application of this provision may also target officers who are out of favour with the chief or local officials.

Arbitrary penalty of 40 hours' pay, the inclusion of a very substantial penalty of 40 hours' pay which may be arbitrarily assessed as an informal discipline penalty for non-serious misconduct: The act currently provides that an admonishment may be given for non-serious misconduct where the officer agrees. Where an agreement also exists between the police services board and the association, a more substantial penalty may be applied, but in all cases the informal discipline penalty requires acceptance by the subject officer. Without such agreement, a hearing must be held before a penalty can be assessed or an entry made in the officer's employment record. Agreements between associations and police services boards have never included informal penalties as severe as 40 hours' pay. In fact, I am unaware of any agreement that exceeds a maximum penalty of two days' or 16 hours' forfeiture of leave. I am mystified by the apparent need of government to intervene as aggressively as it has in an established and agreed-to informal penalty provision.

No provision for admonishment or reprimand: the removal of the admonishment or reprimand in lieu of a penalty.

Entries in the employment record: the ability of the chief of police to make an entry in the officer's employ-

ment record notwithstanding that the matter remains in dispute.

Officer statements: There is no longer protection for without-prejudice statements made by an officer or a complainant in an attempt to resolve a matter informally.  
**1540**

I stated we would return to comment on the so-called labour relations model following my review of other issues related to the adjudication of non-serious complaints. Only when viewed with these other adverse provisions can one have a true appreciation for the prejudicial impact of a grievance arbitration appeal mechanism.

The government has expressed a desire to rid itself of the oversight of non-serious discipline matters. We have expressed our concern that the government's rationale, as expressed by the assistant deputy minister, simply does not stand up to scrutiny. Is it then the saving of a few dollars that motivates this change? Indeed it is, and at the expense of our members. Our members have the right to be protected from the arbitrary tyrannical conduct of a spiteful employer, given the nature of the police employment relationship.

Where arbitrary discipline has been imposed on a police officer, he or she must have the benefit of a timely and non-cost-prohibitive appeal mechanism. The grievance arbitration process does not offer this. The cost of an arbitration could be a prohibitive factor in an appeal against an unjust penalty, but our experience also identifies time as an important consideration. We are not strangers to the rights arbitration system as a method of enforcing our collective agreement language.

In a recent case, a grievance was filed on behalf of one of our members for a discriminatory transfer. An arbitration date is now set some two years after the date of the transfer, which resulted in considerable upheaval for the member. A favourable award could not now bring justice to this case, as the member has no doubt reestablished herself in her new assignment.

In a second case that I am familiar with, a Canada Customs employee was suspended without pay for a period of time, having ignored a small amount of duty owing by a Canadian traveller at a Canada-US border crossing. An appeal of the subsequent penalty through the grievance arbitration process resulted in the penalty being reduced by more than half some three years after the penalty was imposed. While waiting for this matter to be resolved, the employee was forced to file for personal bankruptcy. Like many of us, this employee lived hand to mouth, and the imposition of an unjust penalty played a significant role in his financial ruin.

Surely this committee can understand why the grievance arbitration system or the labour relations model is an unsatisfactory appeal mechanism for a penalty imposed for non-serious misconduct in a police environment. We urge this committee to give serious consideration to an alternative process. Our recommendation would mirror the current non-serious and informal discipline process with appropriate modifications.

In closing, if I may be permitted to quote the comments of a prominent legal counsel, Mr Harry Black QC, who is well versed in the field of police act discipline:

"The proposed bill to amend the Police Services Act would, if passed, in my view, bring about an almost total



eradication of the legal rights of police officers in the discipline process. My own opinion is that it is a very harmful piece of proposed legislation.

"It has absolutely nothing to commend itself from the point of view of the vast majority of men and women officers in this province.

"The proposed bill will destroy legal rights — legal rights that have existed for decades because it has always been self-evident that those legal rights should exist. It will import arbitrary power into the process. It will ultimately destroy the morale of police officers. As a consequence, it will harm the citizens of this province who look more and more frequently to the police for their protection and peace of mind in their neighbourhoods."

I wish to thank the committee for your attention and kind consideration of my comments. I am pleased now, as time permits, to respond to any questions you may have.

**The Chair:** There's only about a minute remaining, Ted, if there's anything you want to add. There really isn't time for questions.

**Mr Thornley:** No, that's fine, Mr Chairman. I'm pleased to let it stand as it is.

**The Chair:** Thank you very much, Mr Thornley, for your excellent presentation.

#### PARKDALE INTERCULTURAL ASSOCIATION

**The Chair:** Our next presentation is Parkdale Intercultural Association, Ms Donna Costanzo. Welcome to the committee.

**Ms Donna Costanzo:** Thank you. I'm here to address the reconsideration of Bill 105 pertaining to the civilian oversight of police. I appear here as a member of the Parkdale Intercultural Association, known in short as PIA. I live in the west end of Toronto, and I am specifically here as the settlement and community education officer of the Parkdale Intercultural Association.

In our minds, at the heart of the issue of truly effective civilian oversight is the degree to which the position of the community in relation to the police services, which it pays for via municipal taxes, is equitable. It is our community's troubled perception that the amendments currently before the Legislature will have the effect of further consolidating power, as it applies to questions of police accountability, almost exclusively in the hands of the police hierarchy itself.

We at PIA are not comfortable with this formula for many reasons. Should the bill pass with the current proposed amendments, it would take away the last hope of the community in no longer having meaningful recourse to possible provincial intervention in an especially disheartening period of depressed confidence in police service, as is true today in our neighbourhood.

As active players in the Parkdale community, we know very well and appreciate that most police officers are not in the habit of abusing their sanctioned use of force, deadly force, and other power over the civilian members of our community. However, when such occurrences seem to have taken place, the role of the SIU is to probe responsibly the incidents of such abuse and unnecessary

violence. The integrity of the role of the SIU is of paramount importance if one is to maintain public confidence in the police service.

It is our communities' view that the civilian oversight and grass-roots community intervention process in the ongoing delivery of police services is most certainly being whittled away. We are effectively stepping backward in the democratic pursuit of equality under the laws of this province. Adequate and accessible venues for complaint and satisfactory resolution will disappear through the amendments before you known as Bill 105.

Currently, of the six institutions which address systemic complaints, only the SIU and the race relations and policing unit at the police college are slated to remain under Bill 105. As you know, the others are the race relations and policing unit out of the Solicitor General's Office, the Anti-Racism Secretariat of the Ministry of Citizenship, the Ontario provincial civilian oversight board, and the police complaints commission. As we see it, we are sliding down a slippery slope of dissolving or at best uncertain accountability into an anonymous apparatus regulated by the police themselves. Policing will inevitably become further suspect by those communities who cannot afford to underwrite their own security.

I have been asked: "How is it that David Gunn of the TTC can be forthcoming and accountable in relatively no-holds-barred fashion about the limitations of the TTC service in terms of safety after the crash in 1995? He must believe the public deserves to know the truth of the matter." Like the police service, the public transportation service is similarly essential and not an option. Riders, as civilians, have the right to expect full accountability from public servants, those who in fact hold in trust the power of life and death over them.

Equally, the police service, as does the TTC, has the technology and should have the training to deliver good, reliable service. Even at the height of the subway tragedy, ridership did not drop. We greatly appreciated Mr Gunn's upfront attitude, his having taken the responsibility for the incident and then his taking subsequent steps to further improve the standards of the system. It's important for you who hold the public trust to realize that in such situations the community members do not choose. The choice is made for us by persons such as yourselves who have been duly appointed and are seen as without prejudice.

#### 1550

The Metropolitan Toronto Police Service, for example, has the state-of-the-art training and technology to make its service excellent. However, it is the view of the community, in light of the all too numerous tragic deaths of civilians, over the past year and a half most especially, that the police simply don't know how and when to use all the training and technology available to them. Shooting to kill is not the only option, we contend.

We feel this is a question of leadership: yours and that of the police. The apparent lack of enforcement of existing standards as set for the police service has now, in the public view, led to a very threatening lack of accountability. The chief and the superintendents may instruct their officers to carry out their duties as prescribed, but the officers seemingly may choose whether

or not to perform them as directed. A more visible or transparent process of internal evaluation should be carried out by the police hierarchy to bring about a more uniform performance.

However, this should not be the only means by which to attempt to pre-empt failure. Complaints of injuries and at times violent behaviour at the hands of the police service are properly the purview of the SIU as a civilian-oversight-of-police body. In an ideal world, truthful admissions of mistakes and the parallel recognition of human foibles is what we would hope to experience, as well as attentively weeding out those who cannot do their job of serving and protecting responsibly.

Perhaps we need to remind all parties concerned as to the applicability of the principle of a suspect being innocent until proven guilty, this principle being at the basis of SIU investigations, as it is with any investigation. This would hopefully aid the investigation in the gathering of all pertinent information and evidence related to the incident, incriminating or not.

Our community is very grateful to the men and women who put their lives on the line in dangerous situations. We are certain there are many. They are to be commended and respected. However, it appears that only after a violent incident has occurred is there any effort made to seek to address the shortcomings in, or lack of adherence to, the applicable protocol.

Models of community-based policing historically in place in Parkdale reveal just how well relationships can be built between vulnerable communities and the police. To react only after the fact is surely insufficient, and truly ineffective. Foot patrols and other efforts reflective of a genuine interest in the community have all but evaporated.

Now considered "soft" service, the Metro police community services 1988 ARA report by consultant Catherine Ashbury outlines how in the comparison of the Jane-Finch and the Parkdale models, the Parkdale model was most successful. This included many strategies evolving out of the community station at the Queen-Brock intersection. Now, after abandonment of five or more years due to funding decisions, the community station is staffed strictly by civilians. The relationship of the police to the community cannot be exclusively nurtured or carried by one party, the community.

The community of Parkdale, in all its rich diversity, questions: Where has the community-based policing budget increase over the past two years been spent? The police need to be viably present in their roles and in their person. Policing, in our view, in some degree is a collective or a shared human activity. Only by the development and fostering of relationships between people can alliances be formed, recognition be made, information be shared back and forth and, most importantly, fear be reduced and trust established.

Fear in the community and fear in the person of the police officer is a question of this lack of trust. It can best be addressed by a sort of informal conflict resolution on the street. It is a question of knowing. With trust-building relationships evolving on the street, supported by the structures of accountability, and acknowledged by the community as fair and impartial, there will be hope.

We fully realize efforts are being made, and we do our best to participate in various ways in them. In a meeting in recent weeks, I was delighted to be introduced to Sue and Victor, new foot patrol officers introduced by Sergeant Clarke of 11 division. I also understand that the country's most effective community-based policing is presently being done in Edmonton, where the officers wear not only their badge number, but also their name pinned to the breast of their uniform, sending such an effective message so simply.

In our community education and development work, we are acutely aware of the fact that information is the key to both equality and the fullest mobilization of community. When we work with either immigrant individual newcomers to our community or with youth, we are very careful in explaining what their constitutional rights include. Aggressive behaviour or obstinacy on the part of an accused individual when in the custody of the police, based on their knowledge and understanding of their rights, could potentially at times make some situations more difficult or awkward than they need to be. The challenge is to get both parties to meet halfway.

As far as information sharing is concerned, we at PIA see that there are different kinds of information: intelligence, misinformation and disinformation.

First, intelligence: Why is it that the police never give out information during a crisis? Why do we not get an honest answer? During a rash of hate-motivated incidents and racist crimes in Parkdale last year, the community was expected to cooperate with the police in gathering information. However, we were never updated in terms of the progress of the investigation. This year we were informed via the service-wide annual hate crimes report that a Polish neo-Nazi group had established itself in our neighbourhood. Where is the community-based effort for prevention here in this instance? We are not thought of as equal partners in the maintenance of our community as a safe and secure place. Unfortunately, though, in the case of crimes such as these, it is those with whom we work who are especially at risk, should they or we be newcomer, non-Christian, non-white, or of some other identifiable group.

Second, misinformation: There is often no clear information. The Toronto chief, for instance, repeatedly failed to seize the opportunities presented to calm the affected communities in relation to deaths involving police officers. Hurriedly offering unsubstantiated statements has further jeopardized the relationship between the police and the community. In situation such as these, when a columnist with a local newspaper is used as the mouthpiece for the police services when statements directly from the chief would most certainly ease and clarify a given situation, one need wonder about the extent to which service solidarity takes primacy over all other felt loyalties or accountabilities. It is precisely this kind of experience that has proven to us the absolute need for full, independent civilian review of the police service function.

Lastly, the concept of disinformation: The deliberate manufacturing and dissemination of wrong information into the public domain via the media is difficult to tolerate. Examples abound: accusing the whole black



community of harbouring criminals or evidence and, by implication, condemning that community; implying the suspect is in a relationship "out of wedlock," when they are in effect a common-law spouse; using the label "immigrant" of a naturalized citizen; identifying the first priority of the policing agenda as that of eliminating street beggars; the unending abuse of Parkdale in the media as a haven for criminal activity beyond compare to all of Metro save the Regent Park or Jane-Finch neighbourhoods.

These examples of a police service with little true accountability to its community, resulting in perceptions of suspect investigations or the experience of a systemic discrimination against whole communities by the police, could conceivably even leave the police and the government open to legal action for neglect of duty. Professional negligence is a serious matter and those accountable need to be held accountable. As our political leaders, we depend on you in all your power to uphold, defend and advocate for a just and fair and equitably policed society.

It is only through independent civilian review of all officers' duty to comply, tighter protocols dealing with the use of deadly force and other basic principles that the integrity of the police function can be maintained and preserved. With these principles affirmed, coupled with a comprehensive community-based policing approach, only then can the safety and security of our communities be ensured.

I will leave you with a definition put forth by the Metro Toronto community advisory on anti-hate and anti-racist activity in a handbook that we wrote this year. It was printed at the end of 1996. On page 13 you will find the definition of the ideology of perpetrators of hate crime;

"Hate crimes and hate-motivated activity is committed by youth and adults. Not all perpetrators are connected to any organized hate groups. Hate activity is not always a result of group strategy, but the result of societal oppression of women, people of colour, gays and lesbians etc. Some are members of organized hate groups which indoctrinate youth and adults to their ideologies. As stated by the Canadian Association of Chiefs of Police, white supremacist ideology sends the following vile message to Canadians."

**The Vice-Chair (Mr E.J. Douglas Rollins):** Thank you very much. That is the extent of your time.

**Ms Costanzo:** Thank you for your time.

1600

DAHN BATCHELOR

**The Vice-Chair:** The next presenter we have is Dahn Batchelor. You have 15 minutes to use as you see fit. If you don't use all that time up, we will use it up asking questions. Thank you very much.

**Mr Dahn Batchelor:** I am appearing here as a private citizen, but just to give you some idea of my background, I studied criminology at the University of Toronto from 1970 to 1974. I studied forensic science at the Forensic Science Centre from 1974 to 1975. I have been an adviser to the United Nations on criminal justice since 1975 and presently hold that position. I have addressed

the United Nations 15 times on criminal justice. I am the father of the United Nations standard minimum rules of juvenile justice which all young offenders acts derive from.

I assisted the country of Botswana re the selecting of their training manuals for their police forces. I was a fraud investigator for Centurion Investigations from 1975 to 1976, a syndicated newspaper columnist from 1976 to 1983 and wrote a weekly and daily column on the law. I was an associate editor of Canadian Police News from 1983 to 1986, a group counsellor to the ministry of corrections from 1976 to 1983 part-time, and I've been practising criminal law in the criminal courts from 1964 to the present.

I have had an opportunity to study Bill 105 and wish to address some of the concerns I have about this bill. I will draw your attention to part V, which deals with complaints.

Section 56 states: "Any member of the public may make a complaint under this part about...the conduct of a police officer." Now there is an exception to the words "any member of the public." That exception is found in subsection 57(1), which states: "A complaint may be made by a member of the public only if the complainant was directly affected by the policy, service or conduct that is the subject of the complaint."

Imagine this scenario if you will: A careless and indifferent police officer doesn't call the victim back after investigating a hit-and-run case and the victim not only has great difficulty in understanding English but also comes from a country where police indifference is the norm, so he does nothing. He knows it's wrong for the police to treat him in such an indifferent manner but he is too terrified to complain.

He calls upon a friend who might be a person who speaks good English, or a paralegal or a lawyer, and tells this person what occurred. For argument's sake, let's say that his friend is a paralegal whom he met previously when he thought he had immigration problems. His paralegal friend knows that this particular officer was wrong in what he did and feels that this officer's conduct should be brought to the attention of the police force.

The paralegal, along with many other citizens, is knowledgeable in the law and in police practices and, as such, is able to prepare a proper complaint to the police, a complaint that they will fully understand. It will include a statement of facts signed by the complainant and a summary of the paralegal's views on the police officer's failings and what was expected of him. In the course of the inquiries the paralegal learns that although the police officer did conduct an investigation of the hit-and-run incident, he neglected to call the victim back to tell him of his investigation and give him his conclusions.

The officer complained about, having been reminded by a superior officer of his duty to the victim, calls the victim back and tells him that he investigated the hit-and-run accident, but because the driver of the other car lived in Barrie and sounded like he was in his late 60s, he decided not to ask the driver of the car to drive to Aurora, 50 kilometres south. Instead, he asked him to tell the officer on the phone if there were any scratches, dents or marks on his car to show that he had been in an

accident. The subject driver, as expected, says that there aren't and the officer then concludes that the subject driver is probably not involved in an accident. The case is closed.

Now anyone with any common sense knows that is a sloppy way to investigate a hit-and-run accident. Since the accident occurred 90 kilometres south of Barrie, it really shouldn't be a problem for the subject driver to drive to Aurora to have his car examined since Aurora is only 50 kilometres away. If that was a problem, the officer could drive to Barrie or have a police officer in Barrie conduct the examination of the subject car in Barrie.

Such an officer as I have described would be very stupid, lazy, incompetent and negligent. The complainant would sense that, but being from a country where the police officers are brutal, the complainant doesn't dare question the police officer's intelligence, knowledge or ability and accepts the incident as an unfortunate occurrence in his life.

Now you and I wouldn't stand for this one bit, but there are thousands of citizens and landed immigrants who not only risk being victimized by this kind of sloppy police work but will accept it because they don't know what to do about it and they're too afraid to complain. But the paralegal knows what is wrong and he knows how to complain and, most important, he isn't afraid to complain.

Ladies and gentlemen, this actually occurred just recently, only the victim of the hit-and-run was me and not some poor landed immigrant who hardly understands English and would be too afraid to complain about the police officer.

After giving the negligent officer a mile-long rope to hang himself, I wrote the commissioner of the OPP and demanded an investigation into why this officer who told me he would call me the next day hadn't called me for 30 days. The next thing I knew, this officer's superior officer called me and apologized and said that the subject officer was chastised for having neglected to call me as he promised. After he arranged for the subject officer to call me and after listening to the subject officer rambling on about the other driver's age, I realized that I had been cheated out of a professional investigation. The original officer sent to investigate my hit-and-run occurrence was a rank amateur being paid as if he was a professional.

I won't give you a dissertation of what I sent to this man's superior officer, but suffice it to say that he was deeply concerned and said that if the new investigator sees one scratch, one mark or one dent on the other driver's car that corresponds with the collision between his car and mine, the other driver is being charged with fail-to-remain.

That's fine. That would come about as the result of professionalism on the part of the new investigating officer. But now let's turn again to the victim in the scenario I previously gave you. Would he have the knowledge, the fortitude and the courage to stand up for his rights and complain about the rank amateur who bungled his way through an accident investigation, a cop who was so indifferent to his work as a police officer that he didn't even bother to call the victim back?

That is why section 57 is flawed. Someone has to represent the victim's interest in this case, but if we're to follow the dictates of section 57 the way it is written, only the fearful immigrant, who hardly speaks or even understands English and who fears police in any case, must make the complaint.

Considering what we have been hearing about the dishonest police forces in Mexico, if you were living there month after month with little understanding of Spanish and mindful of how many of the police officers there are on the take, wouldn't you prefer to have a Mexican friend who was knowledgeable about Mexican law and its police practices represent you with reference to your complaints? Of course you would.

Subsection 57(2) goes on to say in part, "A complaint made by a member of the public must be in writing, signed by the complainant."

If in the previous scenario, a landed immigrant went to his paralegal or any other agent or lawyer or even a knowledgeable friend and asked him to prepare the complaint on his behalf, the paralegal would divide the complaint into two parts. The first would be a statement of facts signed by the complainant and the second part would be the paralegal's thoughts on the matter. It would be foolish to expect the landed immigrant to sign his name to the second part of the complaint because although he may understand to some degree what his paralegal is saying in the paralegal's portion of the complaint, his signature would be meaningless as the thoughts are those of his paralegal and not necessarily his own.

As I see it, subsection (2) is also flawed for the reasons given.

Now I refer you to subsection 58(4), in which it says in part, "The chief of police shall not deal with any complaint made by a member of the public if he or she decides that the complainant was not directly affected by the policy, service or conduct that is the subject of the complaint."

Are we talking about the victim's friend, paralegal or lawyer whom the chief won't deal with? The sentence is too vague. It appears to me, however, that no matter who is representing the victim's interests, be it his friend, his paralegal or his lawyer or for that matter even his member of the Legislature, the chief is not obliged to talk to such a designate chosen by the victim.

I find that subsection offensive and, quite frankly, quite dangerous. It denies victim representation, something that all of us are entitled to.

#### 1610

Nowhere in Canada is any person denied the right to be represented, be that person a prison inmate doing time for murder or a child caught stealing candy. All persons, including victims of crimes or police brutality, are entitled to be represented at all hearings and inquiries or during investigations, no matter how mundane.

The idea of an investigating police officer browbeating a frightened complainant into withdrawing his complaint against another police officer without having the right to have a relative, a friend, a paralegal, a lawyer or even his MPP present is outrageous.

It gives powers to chiefs of police that they would otherwise not have. And all of this is done in the name of



justice. If that's justice, then justice it is going under an assumed name. What it is really being done is in the name of police protection. The protection I speak of is not that afforded to the citizens for their best interests but rather that which is afforded to the police for their own interests.

One would have thought that we would have learned from our past mistakes. In times past, we winked when we learned that robbers were tortured to make them confess. Later, when we became more civilized, we only winked when their handcuffs were too tight. Are we now to wink when we learn that the victims of police wrongdoings will have their complaints dismissed because they were browbeaten by police officers because while they were unrepresented, they were too afraid to stand up for their rights and, as a result, they signed away their rights?

Ladies and gentlemen, if you permit these offensive subsections to stand the way they are, you will in essence be winking away the rights of those too terrified to speak up against injustice. They will succumb to wrongdoings committed against them by some of the rogue police officers within our police forces. That will be a lot to ask of many of our citizens and landed immigrants and, in the end, only the very knowledgeable and/or the very brave will risk standing alone and dare speak out and complain.

**The Vice-Chair:** Thanks, Mr Batchelor. We have a very small minute per side starting with the opposition.

**Mr Bruce Crozier (Essex South):** Thank you, sir, for coming today. If I were to assume that the reason that these portions of the bill were written the way they are was to somehow minimize what have been in the past considered to be frivolous complaints, how would you address the problem then if not in this way?

**Mr Batchelor:** That was brought to me the other day by a sergeant in the police department who I'd known and whose advice was asked on this. He says there have been cases where busybodies, people who have a thing against the police are willing to go beyond, make the thing bigger than it really is.

I can't tell you how to control that because obviously there will always be people like that, the same as there will be bad police. But I'm thinking of the mature people, a lawyer, a paralegal or someone who's trained and knows something about police procedures. Somebody calls them up and says: "Look, I think I've been mistreated by the police. I need advice."

I think if that person comes to him, the way I propose it, that person should be able to act for the complainant and get the complainant to sign a statement of fact and then give it to the police, then have the police deal with the complainant, with that person, friend, or whoever present, so that this person feels secure and knows that everything's okay. It's up to the chief of police to determine in his own mind whether the whole thing's frivolous or not. He's the one who has to make that decision.

What I'm concerned about is not the frivolous ones but the legitimate ones where the police, the way this law is set up, will say, "I'm sorry, but we're only going to talk to Mr Mikenstein," who incidentally doesn't speak English and will have great difficulty understanding what's going on, "and let him make the decision." The

man who's the complainant may not really know what's happening to him.

**Mrs Marion Boyd (London Centre):** Thank you very much for bringing forward in a very clear way the problem with this whole issue around the police chief being able to make this determination around third-party involvement. I know that is a basic issue of justice when people are unable, for many different reasons, to make a complaint without some assistance.

I share your concern, and I share it particularly because the way this is set up there is no appeal above. You used to be able to go to the police complaints commission at that point, but now there's no appeal above that. The appeal can only be based on whether or not the chief was right in saying that it wasn't the first party, so it's particularly dangerous, isn't it?

**Mr Batchelor:** I should add that I have over the years, especially since the first public complaints bill was drafted up — I had a hand in drafting it up, so I was familiar with how it was working — represented about 25 persons who came to me and said, "I'd like you to look after my interests." I'm happy to say that all 25 cases were resolved.

I'm speaking for myself. If you get some jerk who's going to make a big thing out of it, I can't stop that. But I am thinking there are an awful lot of people out there who really are concerned. If one of you has your constituent complaining about something like this, that would be a problem. I might add that this actually happened in this room. A man came to me the day before and told me he'd been threatened with a gun by a police officer, that they were going to shoot him, and he believed it and he confessed. I brought it to the Solicitor General's attention. He came to me after and said, "I'm going to have it investigated," and he did and the charges against the man were withdrawn.

So these things happen, and the idea that an MPP has his own constituent telling him that he's concerned and then the chief of police says: "I'm not answerable to you. I'm answerable to him. Get out of my office" — you know what I mean? I don't want to see that happen.

**Mr Jim Flaherty (Durham Centre):** Thank you for your presentation, sir. I'm interested in your references in your presentation to paralegals. Do you work as a paralegal?

**Mr Batchelor:** Yes. I started in 1964. I'm the chairman of the education committee of the paralegal society.

**Mr Flaherty:** Let me take this opportunity then, since that's your background and experience, to ask you on a topical subject how you see the interrelationship or division of duties, if any, between paralegals and lawyers in the civil complaints system.

**Mr Batchelor:** I don't see any problem. The Law Society of Upper Canada has stated they recognize the need for paralegals. The only concern they have is that they be trained and that they have some sort of regulation, and we've been asked by the government to draft up the regulation. That's the only problem we have with the law society. The law society feels that we have our role to play; they've got their role.

I have, on average, about 200 clients at any one time. If any of them come to me about a problem about a



police officer — and they have — then I'll look after it. If they're being represented by a lawyer, they'll go to their lawyer. I don't see why he can't look after it. I don't see a problem there. Now, not all lawyers —

**The Vice-Chair:** Sorry. Our time has expired. Thanks very much for your presentation.

#### TORONTO BOARD OF MANAGEMENT

**The Vice-Chair:** We next call to the witness stand the Toronto Board of Management, John Morand. You have 15 minutes as you see fit to use.

**Mr John Morand:** I thank you on behalf of the city of Toronto for the opportunity to present one viewpoint to you for your consideration.

In 1976, the royal commission on the Toronto police force was finished and presented. I assume that some of you have had the opportunity to read that report and its recommendations. In that report it said, "To ensure prompt investigation in hearing of complaints of improper use of force and other abuses by the police, it is essential that there be a properly functioning citizen complaint procedure...having as its central aspect an independent investigation and review of police conduct and an independent tribunal for the hearing of complaints."

This was the central recommendation of Mr Justice Morand's report in 1976. It was the foundation on which the present police complaints procedure was subsequently built. On behalf of the city of Toronto, I'd like to add my own voice to those of many others who have appeared before you expressing the same concerns at the changes to the police complaints procedure contemplated in Bill 105.

Initially your schedule did not allow us to come and present this brief. I'd like to thank you for adjusting your schedule and giving us the opportunity.

My personal interest in this matter stems not only from my role as commissioner of the city of Toronto, but from my past experiences with police governance issues in other municipalities as well as on occasion being defence counsel. It also reflects my personal concern as the son of Mr Justice Morand to see that the vital legacy of his report is not lost to the people of Ontario.

In the above quote, I've highlighted three elements called for by Mr Justice Morand. It is my belief that Bill 105 threatens the proper functioning of citizen complaint procedures. It certainly removes from the vast majority of complaints any possibility of independent investigation, and for most complaints it substitutes the judgement of the chief of police for that of an independent tribunal. I will elaborate on these three points, in reverse order, in the course of this brief.

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You've already heard from a city representative who spoke to you on behalf of the Toronto Mayor's Committee on Community and Race Relations. My perspective on this is quite different, but we find ourselves sharing many of the same views.

Bill 105 eliminates an independent tribunal for the hearing of complaints. Under the present system there are boards of inquiry. These can be convened by a chief who reviews a complaint investigation report — this does not

happen very often; perhaps one in a thousand — or by the police complaints commissioner, or on appeal by a police officer.

Each board of inquiry is at arm's length from the police it is investigating and provides both officers and complainants with an independent tribunal. Under Bill 105, there will be no formal hearings at all except in those cases where the chief of police both (a) determines that a police officer's conduct may constitute misconduct or unsatisfactory work performance, and (b) chooses not to resolve the matter informally without a hearing. When such hearings are held, they are held not by an independent tribunal but by the chief of police.

The only other hearings provided for under Bill 105 are carried out by police service boards, which are unlikely to be as truly independent, and these occur only in the case of a complaint which has been investigated by another police force because it involves possible illegality or misconduct by the chief or deputy chief. In such cases, and only in such cases, the police services board is given the further option of asking that the hearing be carried out by the Ontario Civilian Commission on Police Services under subsection 64(9), the one and only opportunity in Bill 105 for a truly independent tribunal to hear a complaint.

It is quite clear that under Bill 105 there will be no independent tribunal for hearing the vast majority of complaints against police officers, however serious those complaints may be. This is a significant failing for citizens whose dealings with the police go awry, and also for police officers themselves.

Bill 105 will not lead to an independent investigation and review of police conduct. Justice Morand's answer to the age-old adage of "Who will police the police?" was to recommend that there be independent investigations and reviews of police conduct. In the present system we have that. The police complaints commissioner, PCC, an arm's-length body, monitors all investigations and has the power to initiate its own investigations. The PCC receives copies of all complaints and interim reports on their investigation every 30 days. By the way, it also goes to the complainant and the subject officer.

The system does not work perfectly, but it is built on the right principles. To again quote from Mr Justice Morand's report, "A system must be developed for the prompt, impartial, vigorous and independent investigation of such complaints, incorporating appropriate safeguards for the rights of police officers." That's at page 184. Discussing legislation then before the British House of Commons, it quotes, "The most important provision is the introduction of an independent element into the procedure."

Commenting on Arthur Maloney's report of May 1975, the report states, "The control of the investigative branch by the civilian appointed commissioner of citizen complaints with the powers suggested by Mr Maloney would ensure the impartiality and thoroughness of the investigation."

He goes on: "The principal objection offered by the police to this system is that it takes disciplinary matters out of the hands of the chief of police. The second objection is that the procedures laid down were cumber-



some and potentially costly. Neither of these objections commend themselves to me. In the system envisaged by Mr Maloney, the chief retains the right of assigning the penalty in every case. It is only the determination of the validity of the complaint which is removed to another tribunal. In my view it is fundamentally important that the public be confident that a full and impartial investigation has been carried out and that the adjudication has been made by an independent person or tribunal. Justice does not appear to be done when the entire procedure is in the hands of the very body against which the complaint is made.... These considerations must be paramount in any decision concerning citizen complaint procedure."

I have quoted Justice Morand at some length because a rereading of this report puts Bill 105 in a very clear perspective. In many respects, Bill 105 is 1974 revisited. If it is enacted in its present form, I believe we can expect the relationship between citizens and police to deteriorate, and none of us want that. It was to try and halt just such a deterioration that the present system was put in place. For many residents of the city and Metropolitan Toronto, Bill 105 is immediate bad news, and in the long run I believe it is bad news for all of us in this great province.

Under Bill 105, the Ontario Civilian Commission on Police Services, which effectively takes over most functions of the police complaints commissioner, will not itself carry out investigations. Admittedly, its powers and duties as set out in section 15 will include: conducting inquiries, under its own motion, in respect of a complaint and its disposition by a chief of police; conducting reviews into a chief's decision that a complaint (a) is about the force and its services, or about the conduct of an officer, or (b) should not be dealt with because it is frivolous or vexatious, or (c) will not be dealt with because the complainant was not directly affected, or (d) is unsubstantiated or relates to conduct that is not of a serious nature.

Bill 105 is very specific that in carrying out such reviews, the commission must rely on material provided by the complainant or the chief and shall not hold a hearing into the matter. I've provided to you a couple of sections from Justice Morand's report when complaints were reviewed. In that report, there are a number of those. I would call them to your attention because it really shows that it is important to get additional outside evidence, that a more public formal hearing, or even indeed informal ability to provide information, would help.

Unlike the existing PCC, the "new and improved" OCCPS will not receive copies of all complainants, nor will it get monthly status reports on all investigations. Lack of this information will compromise its ability to review police conduct.

In my opinion, Bill 105 threatens a properly functioning citizen complaint procedure. In Ontario today, we have procedures for citizen complaints which are admired around the world. They are far from perfect; in fact, almost everyone would like to see them improved. But at their very best, they come close to striking the all-important balance cited by Arthur Maloney in his 1975 report.

Maloney wanted a system in which "the public feel satisfied that the complaints of citizens were openly,

fairly and effectively dealt with" and in which "the police officer should be satisfied that he too was being dealt with fairly." That's very important. Without this all-important balance, there will never be a properly functioning citizen complaint procedure.

In a properly functioning citizen complaint procedure, the following things should happen:

(1) Third-party complaints are permitted, whether from an onlooker who sees something going wrong and wants to do something about it — I'm sure many of us in this room saw a TV clip not too long ago where a police procedure when awry — or from an advocate who can speak out for somebody too intimidated to speak for themselves. This is not true of Bill 105.

(2) Complaints can be lodged in a wide range of places, not just at OCCP and at police stations of the force being complained about. This is not true of Bill 105.

(3) Oral complaints are accepted as well as written ones, so the illiterate as well as the less literate are not disadvantaged. This is not true of Bill 105.

(4) Independent investigators and tribunals are readily available to citizens who do not believe the police will investigate themselves adequately. This is not true of Bill 105.

(5) There is close civilian monitoring of complaints and their investigation by police. This is not true of Bill 105.

(6) Police officers and members of the public can both be confident that the system will treat them fairly. This is key: "will treat them fairly." This is not true of Bill 105.

Presentations to your committee have made it clear that neither citizens nor police officers are satisfied by Bill 105 in its present form.

There's also the thorny issue of the increasingly dysfunctional special investigations unit. Until its investigators have the power to require police to provide information, the SIU will never function effectively. It may be that there is no solution to the SIU problem that can satisfy both the public and the police associations. If so, the government must simply bite the bullet. Bill 105's failure to address the SIU problem leaves citizens without a properly functioning complaint procedure in all the most dramatic and well-publicized cases. It is not helping anyone to let this situation persist.

In conclusion, Mr Chairman, I remind your committee that a society which does not learn from its mistakes will repeat them. The present system for dealing with police complaints grew out of the mistakes of the early 1970s. Our learning then provided us with a solid foundation. We need to modify the superstructure to meet our changing needs, but let's build on the foundation and leave it intact.

1630

**The Vice-Chair:** We've got less than two minutes total. If you would prefer to use a little bit more rather than splitting up time, because I don't think in the two minutes that we've got — do you feel you can make use of 30 seconds? Okay, Peter, then I'll give you 30 seconds.

**Mr Peter Kormos (Welland-Thorold):** Thank you kindly. Your submission is almost a précis of all of the

concerns that have been raised from day one about Bill 105 from the respective constituencies out there, some of whom with what they might perceive to be conflicting agendas, but at the end of the day, not. The right of third parties to report in proper conduct seems to me so natural and desirable that I can't for the life of me know why the government has dug its heels in on that. It rots your socks. I can't for the life of me understand. Can you?

**Mr Morand:** I guess the answer to that is, under this the Rodney King videotape wouldn't be available.

**Mr Garry J. Guzzo (Ottawa-Rideau):** Thank you, sir, for your comments, parochial as they might be, and that's understandable from a municipal employee. But you did mention that you were a member of the bar.

**Mr Morand:** Yes.

**Mr Guzzo:** What year were you called?

**Mr Morand:** In 1972.

**Mr Guzzo:** That was a fantastic year, was it not?

**Mr Morand:** As I recall, you were in my class.

**Mr Guzzo:** There was a bumper crop that year.

**Mr Crozier:** As with other comments, we could learn something from that, no doubt. I want to thank you for appearing today, sir. I appreciate your comments and we'll certainly take them into consideration when we have our clause-by-clause review.

**Mr Morand:** Thank you very much.

#### COALITION FOR LESBIAN AND GAY RIGHTS IN ONTARIO

**The Vice-Chair:** The next presenters will be the Coalition for Lesbian and Gay Rights in Ontario, Glenn Betteridge and Tom Warner. You have 15 minutes to use as you see fit.

**Mr Glenn Betteridge:** First off, CLGRO would just like to thank the committee for the opportunity to appear today and present our submissions. We've provided written submissions, and given the 15-minute presentation time I will not be able to cover all the points therein, but at your leisure, I hope you would all find the time to read them and consider the points we make.

The Coalition for Lesbian and Gay Rights in Ontario is the oldest and largest organization for lesbian, gay and bisexual rights in Canada. It was founded in 1975 and since that time has been involved in grass-roots organizing and public education of all sorts. Currently CLGRO consists of 20 member organizations throughout Ontario as well as 400 individual members.

The members of the lesbian, gay and bisexual communities in Ontario have had and continue to have reason to complain about their treatment at the hands of the police. The focus of this submission will be on part V of Bill 105, the part that deals with the complaints procedure. Part V, as you're all well aware, proposes to fundamentally restructure civilian oversight of police in Ontario and the current civilian complaints procedure.

Two documents have been produced over the years which are especially relevant to the issues of community policing in the lesbian-gay community. The first one I'd like to draw your attention to is a study called *Out of the Closet*, and this is set out at page 3 of the submission. It was a study commissioned by then Toronto Mayor Art

Eggleton in the wake of the bathhouse raids in the early 1980s.

The second report I'd like to draw your attention to is the recently completed study, *On Guard: A Critique of Project Guardian*. As you're all aware, Project Guardian was the investigation of youth and child sex exploitation in the London and southern Ontario areas. Project Guardian, in CLGRO's view, represents the most blatant example of why lesbian, gay and bisexual communities in Ontario have a deeply felt mistrust and lack of confidence in the police.

The most commonly asserted goal of external, independent review of public complaints against the police is to invoke the public's confidence in the police and thereby ensure good police-community relations. This is borne out by the experience of the lesbian and gay community in Ontario. As a rule, positive developments in police and community relations have occurred precisely because members of the lesbian, gay and bisexual communities have called on police to account for their actions. The value of holding police accountable through effective civilian oversight should not be underestimated by the members of the committee.

CLGRO's basic position is set out at page 5 of our submissions. Although CLGRO is not a member of the Community Coalition Concerned about Civilian Oversight of Police, we fully support the work of the community coalition. In particular, CLGRO endorses the recommendations and findings set out in the coalition's January 1997 document, *In Search of Police Accountability*. The recommendations have been attached as appendix A to our submissions for your reference.

While the lesbian and gay concerns about the civilian oversight of police in Ontario may not be identical to those of other ethno-racial communities in every respect, there's a significant overlap in how members of all these communities experience policing. It is this commonality we experience which makes all our communities acutely aware of the need for responsible, responsive and accountable police forces to serve the needs of members of all the communities which make up Ontario, in all their diversity, and it's this commonality which far outweighs any differences the communities might feel.

CLGRO believes it's crucial that communities which have the most to lose if Bill 105 is enacted in its present form must speak with a common voice concerning the issue of civilian oversight, and that is why we support the submissions of the community coalition.

The basic guiding principles of civilian oversight are set out at page 6, and quickly, they are: (1) accessibility, (2) accountability, (3) fairness, (4) thoroughness and (5) impartiality.

Given these goals and these basic principles, CLGRO has two basic concerns with Bill 105 above all others which I'd like to draw the committee's attention to. We're particularly concerned with the concentration of power in the person of the chief of police under Bill 105. From pages 7 to 8 of the submission, we set out at length all the powers that Bill 105 proposes to give to chiefs of police. They are extensive, to say the least.

More troubling is the fact that this power given to chiefs of police under Bill 105 is virtually unfettered. The



shortcomings of Project Guardian provide a sober illustration of giving the chief of police these unfettered powers. The most troubling aspect of Project Guardian, in light of the amendments proposed in Bill 105, was Chief Fantino's conduct throughout; Chief Fantino being the chief of the London police force. Chief Fantino made his very leadership of the London force an issue because of his management of Project Guardian. His failure to respond appropriately to community and individual concerns about police accountability is at the core of our fears. Chief Fantino's conduct makes it almost impossible, in our submission, for a complaint filed by a member of the lesbian, gay or bisexual communities in the London area to be treated fairly and justly under amendments proposed in Bill 105.

While we do acknowledge that Bill 105 provides for appeals of the decisions of the chiefs of police and complaints to be lodged directly against the chief of police, these avenues of redress do not provide a timely, satisfactory remedy for complainants whose rights and liberties have been infringed upon. Every citizen must have a right to file his or her complaint with a neutral, independent body at first instance, rather than having to appeal the decision of a biased or prejudiced chief of police.

Our second major concern with the amendments proposed in Bill 105 is that they will render civilian oversight less accessible and therefore less accountable. Studies show that the vast majority of people who have suffered abuse at the hands of the police do not file complaints, because of a lack of confidence in the police.

Currently there is no requirement that a complaint be filed by a person directly affected. This would change under Bill 105, as the previous presenter, and I'm sure many others, has brought home to the commission. In this regard I would like to quickly read two quotes from a recently completed study of lesbian, gay, bisexual and transgendered health needs in Ontario:

"Cops in Kirkland Lake are homophobic and don't care."

"I was kicked out of a restaurant for being gay because the owner knew from someone else that I was gay. I called the Timmins police and they didn't help at all and were rude. When I was physically assaulted, I didn't bother to contact the police."

1640

It is in this context that we are particularly concerned with the lack of accessibility imposed by the direct nature of a complainant's right. The complainant must be directly affected. We do not believe this is just and we do not believe it will lead to police accountability.

I'd like to conclude by saying that CLGRO's position is that this bill should be withdrawn and fundamentally restructured to reflect the five basic principles of police accountability as I set out earlier.

I'd like to thank the committee for its time. We'll entertain any questions in the remaining time.

**The Vice-Chair:** Thank you for your presentation. We have approximately two minutes per side, starting with the Conservatives.

**Mr Bob Wood (London South):** We appear to have no questions, Mr Chairman.

**Mr Mario Sergio (Yorkview):** You mention here on page 5 the lack of process or participation by some various groups and so forth. You have had no opportunity to have any input at all in the drafting of the bill? You have not met with anyone?

**Mr Tom Warner:** No. I can answer that. One of the reasons for that is that we are a volunteer organization, and the time frame given initially for making submissions to the task force or the committee that was originally looking at this was so short that there simply was no opportunity for us to make a presentation. We think that was a flaw in the consultation process. It didn't allow grass-roots, community-based organizations sufficient time to make presentations and have meaningful input into the final recommendations that came out of that committee.

**Mr Kormos:** You were here when the previous presentation talked about this as a return to 1974, as a major regressive move to what some people here in this building think of as the good old days — far from it.

You've read the bill. Have you drawn any conclusions about what's driving this, why they would eliminate civilian oversight, why they would deny third-party reporting of police misconduct? Have you drawn any conclusions about what drove this bill?

**Mr Warner:** There's probably a perception that the current legislation already goes too far. It would be our submission that it doesn't go even far enough and needs to be strengthened. The current system was put in place because of very real problems that individuals in various communities experienced.

I think unless an individual is a member of one of those affected communities it's very difficult to have an appreciation as to just how important these kinds of processes are. If I could characterize it, I would say perhaps it's a lack of an understanding or an awareness of just exactly how needed this legislation is. Rather than being intrusive, it is in fact protecting the rights and liberties and ensuring some form of justice in the face of allegations of wrongdoing.

**Mr Kormos:** We're obviously going to have a hard time responding to the bill in clause-by-clause in terms of amendments, because it'll either require several days, worth of amendments to bring the bill close to where it ought to be or it'll be a matter of simply opposing it on the basis of its being so flawed that there's no portion of it that we can approve of.

For the life of me, I can't understand, when almost every presentation has been in sync with yours — from the police associations themselves who have expressed concern about the lack of independent review of the process — why the government's still forging ahead. It's difficult.

**Mr Warner:** We submit that the bill is so flawed that it should be withdrawn. That's one of the recommendations we have. Just one example: We do not understand why the legislation would put in place a system where the chief of police is both the investigator of a complaint and the adjudicator of the complaint. That simply flies in the face of everything that the courts have said, including the Supreme Court of Canada, is appropriate for a complaints system of this kind. That point alone would

warrant, in our view, the withdrawal of the bill and the introduction of one that meets the current standards.

**The Vice-Chair:** Thank you very much for your presentation.

#### TODD DUFOUR

**The Vice-Chair:** The next presenter we have is Todd Dufour. You have 15 minutes to use as you see fit. If you don't use all that time, we will ask questions.

**Mr Todd Dufour:** I have a history with the police. I'm going to go back from 1995 to 1983.

On September 17 or 18 of 1995, three police officers came to my house. I live at 366 Thorold Road, Unit 221, Northtown Co-op. At the beginning, my children were getting beat up and the reason why is because my kids play with Somalian children. You can rent and live there, but you're not allowed to play with other coloured people. The adults there are not civil, they can't talk or anything like that. All they do is fight, argue and then jump, get their kids to beat up on other kids.

I left that place. I was tired of having my kids getting beat up. The bikes get stolen and everything. I go there and talk and the next thing I know, the police visit my door. Three officers come to my door, come in and I talk to them. One officer starts punching me in the face, punching me in the stomach, pushed me against the door, then he got me on the wall. There's a big two-by-one-foot hole in the wall. I said, "What the hell's going on here?" and he starts mouthing off and he goes, "I'm going to take your kids away from you." Next thing I know, I said, "What are you talking about?" and he starts punching me again.

I notice the window's open, so at the same time I said: "Hey, why don't you close the shades? Everybody else can see you." They didn't say anything else. Then he nailed me in the dining room, punched me some more and then picked me up, pushed me against the kitchen wall. I noticed one officer couldn't even begin — he was so clued out about what was happening, he was in shock to see his partner do this.

My son came through the front door and the officer picked me up, pushed me against the door. My son ended up getting a bloody nose and I was thrown against the door again. I get out there, my son's bleeding and everything, and the officer says, "Your father punched me in the face," and everything like this. I didn't assault that police officer. I didn't do anything. I just stood there and took the punches.

Then my son's crying, he wants to know what the police are doing there. The police officer said: "Fuck off, kid. Don't bother me." Then the next thing I know, I'm in the cruiser. I go to the police — what do they call that? — holding cell, I'm there for two and a half, three hours. Then — I don't know what you call him, either he's a man of the cloth or else he's like a minister — he ended up taking me home and I haven't talked to any other officers since then until I heard about Bill 105 on the TV.

In January when I served this off, the police came to my door: "What are you complaining about now? You've got no rights, you've got nothing." Then in March, either

the last week of February or the first week of March, Port Colborne police department, Constable Trevison — the three officers who did the assault — well, one did the assault and two watched. The one who did the assault, there's no name. I don't know all three of those police officers. This Officer Trevison gets me on the telephone and says, "Do you remember me?" I say, "Yes, sir, I do." He goes, "Do you remember what I did to you?" I said, "Yes, sir, I do." Then he says, "Good, I'm glad," and starts to laugh.

#### 1650

Then I wrote a letter, I guess, to the big chief of the police department of all Ontario. I don't know if that's the right person I'm talking to, but I haven't got anything back from him yet. But the first time I wrote him a letter, he said it's something that shouldn't have happened but he will not deal with it.

Now I want to go back to 1983. In 1983, I had a speeding ticket and careless driving. This officer is Officer Kaiser. He was off duty, in his car driving home, and he nails me for speeding and careless driving. So I get out of the car — I didn't even know; I was in the A&P parking lot — he picks me up and pushes me against the car and then he searches my car. Then he calls me "a fucking asshole" and "a nigger lover." "Nigger lover," do you understand that word? Who's racist here? Officer Kaiser.

Another thing, I've got a letter from my son. This was when he came home from Boy Scouts. It happened after he came home from Boy Scouts. It says: "I was riding my bike home from Boy Scouts. I saw police cars when I stopped my bike. I saw a police officer throw my dad into a wall, then the police officer punched my dad two or three times in the ribs. Then he slammed the door in my face and when I asked him why, he gave me a bloody nose and he said: 'None of your business, jerk. Go home.'"

Now I don't know, in Welland right now they have this thing about respect for the police department. They've put on a big charade. Oh, yeah, respect the police department. How can you respect the police department when you get one officer, Constable Kaiser or Officer Kaiser, either one, telling you you're a fucking nigger lover?

I went to court over that. I didn't go to court over him saying "nigger lover." I went to court over a speeding ticket and — what do you call that? — careless driving. I pleaded guilty to it, but in the meantime the judge told me: "Mr Dufour, this is your lucky day. Case dismissed." The reason the case was dismissed was because Officer Kaiser did not have his paperwork completed and filled out. He made a few errors.

This I don't believe in the police department. It's very hard to believe. I'm not saying all the police department is like this, but there are one or two in every town. There's one in every little office, department and everything, but if you go talk to this gentleman here — well, I wouldn't call him a gentleman, but he is a police officer. I respect his uniform, but I don't respect the person. That's all I've got to say.

**The Chair:** Thank you very much, Mr Dufour. There's very little time for questions. Mr Kormos, we'll start off with you then.



**Mr Kormos:** I appreciate your coming forward. I know that you were met with some silence. The incident in 1983 is obviously a very old one at this point. As a matter of fact, that police officer's no longer a police officer, no longer with the Niagara Regional Police force. But you're talking about things that happened as recently as 1995.

**Mr Dufour:** Yes 1995, 1994 and 1983.

**Mr Kormos:** Over at Northtown Co-op when you were living there.

**Mr Dufour:** Yes.

**Mr Kormos:** The parliamentary assistant to the Solicitor General is Mr Wood, right there. He's paid an additional \$10,000, \$11,000 on top of his MPP salary to be the parliamentary assistant. It strikes me that having heard what you have to say, he should take the time to either give you his card now so that he can be in touch with you to help you address these matters or arrange a time to meet with you. Would you be prepared to do that with him? He's the second in command to the Solicitor General.

**Mr Dufour:** Yes, sir, I would be glad to. This is the most unbelievable story, but it's the exact truth.

**Mr Kormos:** I don't think anybody here should have any reason to doubt that you've come here prepared to tell the truth.

**Mr Dufour:** I've got two kids to take care of. I can't go fighting the police department, you know. I haven't got time to go around — I'm getting beat up by the police. My kids are getting beat up because —

**Mr Kormos:** Okay. This gentleman right here is political staff for the Solicitor General. Mr Wood has to hear the next submission, but this gentleman may take the time — I hope he would; he should — to get your name, address and phone number so he can be in touch with you and help you pursue these matters.

**Mr Dufour:** Okay.

**Mr Kormos:** Thanks for coming here.

**The Chair:** Do the government members have any questions?

**Mr Bob Wood:** You described an incident in 1995.

**Mr Dufour:** Yes.

**Mr Bob Wood:** Did any civil suits occur as a result of that incident?

**Mr Dufour:** No, sir, because I was scared.

**Mr Bob Wood:** Okay. Did any criminal proceedings flow out of that incident?

**Mr Dufour:** I was arrested.

**Mr Bob Wood:** What were you charged with?

**Mr Dufour:** Disturbing the peace.

**Mr Bob Wood:** Has that been to court yet?

**Mr Dufour:** No. I believe they dropped the case. I'm not too sure. All I know is, I went to jail — well, I was in a holding cell — for three and a half hours.

**Mr Bob Wood:** Were there any criminal charges that arose from that incident other than the one you just described?

**Mr Dufour:** No, sir. That's it.

**Mr Bob Wood:** Thank you.

**The Chair:** Thank you very much, sir, for your presentation here today.

## MAYNARD SAM GEORGE

### DELIA OPEKOKEW

**The Chair:** Our next presentation, Mr Maynard Sam George. Welcome, Mr George.

**Mr Maynard Sam George:** Good afternoon. My name is Maynard Sam George. First of all, I must apologize. I handed out the wrong statement. I'll read the one I have here.

It's an honour to speak to you today.

On September 6, 1995, I and my family suffered a tragic and unnecessary loss. On that day, my brother Anthony O'Brien "Dudley" George was shot and killed. He was maintaining an unarmed protest for the return of sacred burial grounds. These grounds were a part of his home at Stony Point First Nation.

Dudley was a native rights and civil rights protester. Dudley was also a brother, an uncle, a nephew, a cousin and a friend to many.

Dudley lost his life while he was standing up for something he and his family strongly believed in, the return of Stony Point lands to his people. Our family were among the original families forced to leave their home on Stony Point Indian lands under the War Measures Act. Like all those families, our family had kept a strong belief that we would return to our homeland. This is the very belief and desire that Dudley held in his heart, the very desire and belief that was extinguished by a bullet.

We began a lawsuit which may take many years. I and my family are prepared for that. We may get a government-appointed public inquiry, maybe an inquest, maybe a long-drawn-out court case, maybe all of these. One thing is for sure: the facts will come out. The wrongdoers will be held accountable, and we hope that other tragedies like this may be prevented in the future.

### 1700

It is clear to us that the Ontario government is following a strategy for hiding the truth. At first the government said they could not call a public inquiry because the special investigations unit was investigating what happened in September 1995. After the SIU report came out last summer and one single officer was charged, the government said the public inquiry was impossible because of the charges. In this way, one ordinary OPP officer has been left to take all the blame.

We are obviously happy that the man who might have pulled the trigger is going to trial, but we are not naïve. We think it's quite likely that he will be acquitted. Almost every single officer who has been charged with killing someone while on duty in the history of Ontario has been acquitted.

But the problem was not with the officer who was charged. The problem was a racist system which allowed this to happen in the first place. By placing the blame on one officer, the involvement of high-level OPP commanders and high-level government officials will be kept under a cloak of darkness. This is the government's strategy, but it will not work.

Our demand for a public inquiry has been supported by Ontario Chief Gordon Peters, by federal minister Ron Irwin, by the Toronto Star, the Ottawa Citizen and other

newspapers, by the Anglican Church, the United Church, the Canadian Civil Liberties Association and the Canadian Labour Congress. Ovide Mercredi and the Assembly of First Nations have supported us from early on in our struggle.

The government's strategy has already started to crack. Despite all attempts to wipe my brother's death under a rug, the truth is slowly coming out. Word has gotten out that a member of the provincial Parliament from Mike Harris's own party was in the OPP command post the night of Dudley's death. More information is coming out which proves that my brother and the other protesters were not armed. In fact, we have recently obtained leaked information where police officers themselves admitted to shooting and having seen no weapons in the hands of the protesters.

Stories about what happened have appeared in newspapers, on radio and TV across Canada, the United States and Europe. Just recently the US state department released a report on human rights around the world. Dudley's death was mentioned as an example of human rights abuses in Canada. As the truth slowly comes out, more and more people are becoming aware and very angry. This should never have happened to anyone living in Canada. Public pressure to hold an inquiry is building, and I believe it will grow to the point where the government will have to cave in.

We cannot stop now. No matter how frustrated and angry we may feel at times, we have to fight for our rights. Our children should not face what we, our parents and grandparents, have had to face. Never again should a government illegally destroy an Indian sacred burial ground, as this government did in 1937. Never again should we be called trespassers and thugs when we try to regain what the government has illegally desecrated. Never again should an aboriginal person be machine-gunned down for simply protecting what is rightfully ours.

I am unsure about a lot, but I know one thing: The truth about my brother's death will come out. I will keep fighting until this happens. Thank you.

**Ms Delia Opekokew:** My name is Delia Opekokew. I'm one of the lawyers for Mr Sam George and five brothers and sisters of Mr Dudley George. As you are aware, OPP acting Sergeant Kenneth Deane was found guilty of criminal negligence in the death of Dudley George.

We are here to speak to the proposed amendments to the Police Services Act, in particular part V. Because of our experience we are particularly concerned about the proposed legislation that gives power to the chief of police to decide which complaints to investigate and to carry out that investigation. This takes power away from a series of civilian agencies.

We submit that self-regulation is a serious problem because there is a natural instinct for self-preservation, and, as in our case, that could blind people from the truth. As an example, when Judge Fraser reached his significant decision, Commissioner Thomas O'Grady stood outside the courtroom still defending Sergeant Deane to the press. Deane was convicted on the basis of his own testimony and other witnesses, including his own

colleagues. Dudley never used guns. He did not even know how to use a gun. He was running towards the park when Deane shot him on his leg. Dudley grabbed his leg and turned to look where the shots were coming from and was then fatally shot by Deane on the left collarbone.

Judge Fraser's decision was based on an exhaustive trial in which he reached his decision based on a rigorous testing of the facts, witness credibility and evidence in the adversarial setting of the courtroom. Notwithstanding this finding, we still have had a difficult time in convincing the public that the decision was correct.

Although we are stating here that we feel the amendments could affect some of the civil review process, and we support that, the authority for the chief of police should not be as strong, because we are against self-regulation in a serious matter like this. However, in our case our matter is so serious that we may have to go outside the existing bodies that are there to investigate the death of someone like in this case. So we are calling for a public inquiry because Deane's criminal negligence was only a small part of this story. There are many people who are directly responsible.

In the past the OPP had a good history of using their community policing strategy in conflicts with first nations so that negotiators were sent in instead of snipers. They had a good and decent record of settling matters with first nations without bloodshed. Why did this change? That question remains.

Essentially our position is that we had an experience with one of the civilian agencies, the special investigations unit, and because of its investigation some information came out that addresses the question of police accountability. The special investigations unit must be given more power in the case of officer cooperation. We had a problem with that when the police association asked for an injunction against the release of certain photographs which could have been used for police identification.

As you have heard, the family has gone through a lot of anxiety. In fact, they did not know why and how their brother died until very recently. They have had to launch a civil suit to obtain certain information. As an example, they didn't receive the autopsy report until March of this year. Thank you.

**Mr Crozier:** Good afternoon, and thank you for coming to the committee. As you've pointed out very well, much has been written and spoken about the death of Dudley George. To that part of your comments that call for a public inquiry, we agree. Our member Gerry Phillips on many occasions has raised in the Legislature that very point in support of your request.

We think it would only require the Premier to say that there would be a public inquiry when all the legal ramifications are settled and we will continue, I am sure, to support that position and do the best we can to support your request.

1710

**Mrs Boyd:** Thank you very much for coming and speaking to us. Your very serious experience with how this whole process works and how difficult it is to get information is extremely important to keep in mind when we're looking at an accountability process like this.



I am not sure that even some of the changes that have been suggested in terms of amendments to this particular act would have got at the larger picture you're concerned about, whether there was political interference and so on. As you know, we're equally concerned about that whole issue and are, as the Liberals are, supporting as strongly as we can that there be a public inquiry. We believe there needs to be one. We're certainly not satisfied with the answers we're getting.

In terms of the SIU and the court process, one of the things that's very important to remember here is that charges were laid and the judge did find the accused guilty and found a finding of fact that was very interesting in this particular case. That will be very important for future cases, I am sure.

Although it's been a long-drawn-out process, I think it will act as a precedent that may help other people who I hope are never in that position, but may indeed be, given the circumstances that you faced.

**Mr Bob Wood:** I have no questions. I just want to thank you for coming forward about something that I know has been a very difficult experience for you. I think your suggestions with respect to the act are quite clear and we appreciate your coming forward and giving us those suggestions.

**Mrs Margaret Marland (Mississauga South):** If I may just add to the comments of the parliamentary assistant about Mr George, we would like to express our appreciation especially in terms of your family still being in bereavement.

**Mr Kormos:** The only question is, who in the Premier's office gave the order, "Get those effing Indians off"? That's the only question: Who gave that instruction?

**The Chair:** You're out of order, Mr Kormos.

Thank you very much for your presentation here today.

#### UNITED STEELWORKERS OF AMERICA, DISTRICT 6

**The Chair:** Our next presentation is the United Steelworkers of America, District 6, Mr Miguel San Vicente. Welcome, sir.

**Mr Miguel San Vicente:** The presentation is going to be presented by the five of us. Mr Michael Seaward is the president of the Toronto District Area Council of the United Steelworkers and he will read the first part of our presentation.

**Mr Michael Seaward:** Good afternoon. District 6 of the United Steelworkers of America welcomes this opportunity to express before the members of the administration of justice committee our opposition to Bill 105. We have approximately 75,000 members living across Ontario. Few organizations are so widely and deeply rooted in this province as ours. We bring to this discussion of policing our union's commitment to the highest standards of public service, civility and human rights.

We believe Bill 105 to be so fatally flawed, particularly its erosion of civilian oversight of policing, that we urge this misconceived legislation be withdrawn and reconsidered. Our submission today concentrates on two

considerations: first, the deficiencies of the proposed legislation; second, the measures we regard as essential in any attempt to renew relations between governments, police, citizens and communities in Ontario.

In our free and democratic society, police are assigned extraordinary powers. They alone have the right to stop, interrogate, apprehend and arrest individuals. Under defined circumstances police may also apply physical force, even deadly force, against citizens. Police accountability for the exercise of these extraordinary powers is a crucial element of a free and democratic society. It is essential to both the protection of citizen rights and the maintenance of public confidence in police services.

We believe Bill 105 is so imbalanced as to seriously compromise the public interest in policing. In the process, it turns its back on the principle of civilian oversight of policing, first introduced by a Conservative government in Ontario more than 10 years ago. Let us remind committee members that it was then Attorney General Roy McMurtry who first established civilian oversight procedures based on recommendations from five different commissions of inquiry into policing conducted in the 1970s. A handful of inquiries into policing during the 1980s and 1990s all advocated the need for stronger civilian adjudication of complaints against the police.

Instead, Bill 105 virtually eliminates any vestige of independent, arm's-length, credible oversight of policing. Conceived in privileged, restricted consultation with the special interests of police and the municipal sector, Bill 105 returns us to a discredited system of police themselves handling complaints against police. It must be said that in preparing Bill 105, poor process has produced poor results.

In developing this legislation, this government eagerly solicited ideas and direction from some stakeholders, while ignoring others who represent the vast majority of the province's population. We are troubled by the unfairness of select access to a series of summits and consultations started last June which were designed to shape Bill 105. Police and municipal interests were invited, while community voices and experts were systematically excluded. This was no way to achieve balance in the public interest.

Bill 105 is unacceptable to us, both for what it does and for what it leaves undone. It contains excessive errors of both commission and omission, which are injurious to the best interests of all stakeholders in policing.

**Mr San Vicente:** The primary failing of Bill 105 is its dismantling of civilian oversight of policing in Ontario. Two existing agencies exercising civilian review are to be abolished outright and the remaining Ontario Civilian Commission on Police Services is to have a dramatically reduced mandate and budget. Instead, police chiefs are to be given sweeping powers to investigate and adjudicate complaints against their own officers and force. For the sake of brevity, here are 5 provisions of the bill we regard as particularly troubling.

(1) The mandatory and elusive first stage in handling complaints against police is assigned to the police chief of the force in question. This removes the current provision for initial civilian review.



(2) The police chief is given unilateral authority to dismiss complaints as frivolous or insufficiently serious. The chief may also resolve complaints informally, with no hearing, without the complainant's agreement, nor is there any obligation for the chief to provide the complainant or the civilian commission an explanation for any of these decisions.

(3) Current time limit and reporting requirements are abolished by Bill 105. Indeed, in a positively Orwellian provision, it's actually specified in section 60(5) that if the chief fails to respond to the complainant within 60 days, then the chief is deemed to have notified the complainant that no action will be taken on their grievance. Again, there is no requirement of the chief to provide any reason for this decision, nor to report it to the civilian commission. Such measures are simply not worthy of Ontario.

(4) While the civilian commission ostensibly exists to monitor complaints against police, there is no requirement that police chiefs even send the commission copies of complaints lodged or notification of their decision regarding the complaint. This is a recipe for civilian exclusion, not civilian monitoring.

(5) Most important, Bill 105 provides virtually no latitude for meaningful civilian review of complaints against police. Unlike present provisions, Bill 105 removes the civilian commission's ability to be the first line of complaint investigation and adjudication. Instead, the commission would now only hear cases after the police chief had ruled, if the complainant appealed. Significantly, any commission hearings are on the record only, with no independent investigative powers.

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**Mr Aubrey Kendell:** In sum, Bill 105 is unacceptable because it establishes the police as investigator, prosecutor and judge of citizens' complaints against police. In order to be credible, oversight of policing must be independent, transparent and operate at arm's length from the police itself. Bill 105 satisfies none of these requirements, nor can we find any justification for abandoning police accountability to civilian oversight.

It is specious, for instance, to suggest that police are presently overscrutinized or detrimentally treated by civilian review agencies. In 1995, for instance, a total of 3,462 complaints against police were filed in Ontario. Barely 4% resulted in admonishment, disciplinary hearing or board of inquiry. There is no evidence that civilian review bodies favour citizens over police.

Conversely, there are precedents for the belief that police review favours police over citizens. To cite but one instance reported in the *Globe and Mail*, it involves elderly grandparents stopped by an officer for an alleged seatbelt violation. By the end of the encounter the grandfather was in hospital with bruises, a swollen testicle and neck brace. He then lodged a complaint against the officer, which was first heard by the police chief, who decided no action was warranted. The soon-to-be-abolished public complaints commissioner then held an inquiry, investigated and found sufficient evidence to rule the officer guilty of unnecessary violence and unlawful arrest, and demoted him for a year.

Under Bill 105, the civilian commission would have neither the mandate nor the resources to conduct such an

inquiry. We are not suggesting that police wrongdoing is rampant or widespread. Rather, we assert that when it is alleged to have occurred, it must be investigated independently of the police itself. If we have learned anything from the sorry deterioration of public confidence in the Canadian armed forces, it is that military and paramilitary organizations need clear civilian oversight, not only for the public's interest but for the police organization's own reputation and wellbeing.

In exchange for the extraordinary powers given to police, a free society must assure that complaints against police are handled in a manner that is balanced and seen to be fair. Such is not the case with the procedures specified in Bill 105.

**Ms Marlene Gow:** Accordingly, we believe Bill 105 must be withdrawn and rewritten.

To conclude our submission, we wish to identify the process, principles and policies we regard as essential to any acceptable legislation on police community relations.

First, we believe an open, inclusive consultation of all stakeholders must precede the drafting of legislation on this important subject. We note with particular dismay the exclusion of the Community Coalition Concerned about Civilian Oversight of Police from deliberations leading to Bill 105. A call must go out to all interested individuals and groups to provide input, and our union hereby serves notice of our desire to participate. Without public input, there can be no public confidence.

Second, we believe accountability and impartiality are the primary principles which must be embedded in any police oversight provisions. Accountability requires fair, accessible, transparent and thorough investigation and adjudication of complaints. The imperative of impartiality requires that complaints be reviewed by independent, neutral parties. Instead, Bill 105 will produce not only the appearance of bias but inevitably instances of organizational self-interest intruding in complaint adjudication.

New legislation must therefore clearly establish an arm's-length, civilian oversight system operating under defined time lines and reporting requirements. Neither complainant nor defendant should have favoured organizational affiliation to those who investigate and adjudicate complaints against police.

Lastly, we wish to state in the strongest possible terms our view that police accountability to the special investigations unit must be strengthened. Bill 105 is disturbingly silent on this matter.

**Mr Clarence Forde:** Committee members will know of course that the SIU was created in 1990. Under the Police Services Act the SIU is mandated to investigate circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. As a matter of statutory responsibility, therefore, the SIU investigates all fatalities and serious injuries caused by police action.

Routinely, the SIU's work is hampered by the lack of cooperation from police officers involved in the case. This is an extremely serious obstruction of police responsibility and justice, which must be corrected.

Subsection 113(9) of the Police Services Act, 1990, states: "Members of police forces shall cooperate fully with the members of the unit," the SIU, "in the conduct



of investigations." Yet police officers routinely violate this obligation with impunity by asserting an untested, and we believe insupportable, Charter of Rights and Freedoms defence. At present, the SIU, police chiefs and the provincial government all simply accede to the refusal of subject officers to cooperate with SIU investigations even though the assertion of charter immunity has never been tested in the courts, let alone upheld.

Would society tolerate any other citizens violating legal responsibilities based on unsubstantiated assertions of rights? We believe not, and that all police officers must be compelled to fulfil their statutory obligation to cooperate with the SIU in a timely manner. Should any officer at that point object, let them or their association pursue a charter challenge in the courts. We are confident that the charter's requirement as set out in section 1, to balance individual rights against reasonable limits justifiable in a free and democratic society, will yield a ruling that police officers, who alone are given the right to use deadly force, do have a responsibility to answer questions regarding their use of extreme measures against citizens.

The current practice of acceding to police non-compliance seriously undermines public confidence in policing. It raises concerns that police themselves are beyond the law. It must be noted in this context that police forces in Ontario have some of the highest rates of resort to deadly force against citizens to be found anywhere in North America.

An article in the March-April issue of *This Magazine* is instructive. Drawing on American criminology research, the article looks at different cities, comparing the number of civilians shot by police in a city to the number of homicides in that city. This allows researchers to develop one indicator of police shootings as a ratio of a city's overall violence.

You might expect, for instance, that a city with many homicides in the general population would also be a city with a higher incidence of police shootings. Not so. Statistics in the article confirm the author's conclusion that, "Toronto police have higher rates of shootings than police in many of America's most notoriously crime-ridden cities."

Clearly there are circumstances when police use of deadly force is justifiable. That's why such measures are permitted. But police owe the public, the victim's family and their own force an explanation of what those circumstances were. That's why cooperation with the SIU is required by law.

Public confidence in policing has been undermined by its relatively high resort to deadly force, the preponderance of racial minorities among victims and the unwillingness of officers involved to explain their actions. Bill 105 purports to renew the partnership between the police and communities. Without addressing the concerns addressed in this submission, it will fail. Thank you very much.

**The Chair:** Thank you, lady and gentlemen. Our time has elapsed. I thank you for your presentation. I just had one question. What does district 6 comprise geographically?

**Mr Seaward:** All of Ontario and the eastern provinces.

**The Chair:** Okay. Thank you very much for your presentation.

1730

OWEN LEACH

**The Chair:** Our next presentation is Mr Owen Leach. Mr Leach will be our final presentation today, the last one having cancelled out. Welcome, Mr Leach.

**Mr Owen Leach:** I'm not here to present many facts to you. I'm here to give you my view of this Bill 105, which I think is a very reactionary bill of a reactionary government here in Ontario. It is an oppressive bill in so far as it seeks to concentrate power in the hands of the police more than it has ever been at a time when we are facing an economic crisis with many people on the street who are being harassed by the police and who have been shot dead by the police.

It is obscene to be proposing that you make a complainant report to the same police station at which the offence had been committed against them. That is absurd. There's no semblance of sensitivity or understanding in putting forward that proposal. Furthermore, you go so far as to place the power in the hands of the police chief to decide which complaints should go forward and to classify them in the degree of seriousness that he deems fit.

We have had a police chief here, Mr Boothby, who has been shown to be thoroughly irresponsible in the shooting of Hugh Dawson just a few months ago. He has played a role that has been very detrimental to justice in this community, particularly in the black community. He took it upon himself to pronounce on the actual facts of the case and express an opinion prior to any charges being laid against the police or any proper investigation being done. I think that is the act of a very irresponsible person and here in this bill you are seeking to put more power in the hands of a person of the type of Mr Boothby. I resent that.

I do not understand where this bill is aiming at also because it seems to me that the Conservative government is afraid of democracy. It is afraid to let the people decide whether the police have exceeded their powers, whether they are engaging in wrongdoing or not. It seeks to dismantle the civilian complaints commission and, in so doing, removes a mechanism of accountability that we in this community have fought to establish for many years.

Why is the Conservative Party afraid to allow the institutions of this society to be judged by the people? This is exactly what this Bill 105 is trying to do, to remove the oversight by the community over the police. I take it that the police are here to serve the people and that the people should have the final word in any wrongdoing or in any oversight over the police.

It is my view that the rule of law in this city has been broken down. I don't know if you Conservatives are aware of that. It has broken down. We are getting police executions in the street. I'll cite you the cases of Hugh Dawson, Edmond Hu, Faraz Suleman. Are you aware of these cases? There are many others. I can read off a whole lot of names here over the past year or two that have occurred. Are you aware of these shootings that are deadly force venues in a very irresponsible manner, resulting in death of citizens of this country, people who

were here legitimately pursuing a normal life in this society?

This country abolished the death penalty but it seems to me that the death penalty is being administered in the street now by the police. This society is no democracy, as you talk about it. It is bourgeois democracy in Harris's and the Conservatives' terms. It is leading to suffering and poverty in this society and it seems the only way you Conservatives can deal with it is to use more force, bring more pressure on the people of the city.

I see that you have even set up a fund for the special interest group which you seem to support 100%, since the Solicitor General when he took office told the police that they had a friend at Queen's Park. It seems that everything you are doing is a payback to the police force. You are not considering the public. It's your special interest group in the police that you are paying off.

I might cite to you the case — how many of you know anything about Station 51, I wonder. That is a station that is out of control. You have a policeman from that station going to the USA to what are regarded as Ku Klux Klan rallies and no discipline being taken against that policeman because he did it when he wasn't on duty. He comes back to the station, and you have had that station go on a wildcat strike. Check it out: Station 51.

You have also had a station recently involved in abusing and kidnapping, in my opinion, a citizen of this country, a white man, who was taken for a ride down to Cherry Beach and around. The Star reports that the evidence that was supposed to be brought forward was removed. The lockers were ordered sealed at the station where the purported evidence was and obviously somebody in the station — because no ordinary citizen could get into the station — miraculously all the evidence disappeared. The lockers were broken and the evidence removed.

We know of policemen in this city who plant drugs on youth. We have got the case involving Coon from the station over by Trethewey and Jane. Have you all looked into that? Maybe Christie Blatchford could tell you something about that because even she seemed to be embarrassed by that case. And here it is that you are putting more power in the hands of the police. I would like you to tell me why.

I think that you are completely out of touch with the society that you are trying to run. The polls show that you are falling, and I think you are much lower than the polls say. I believe that really you are a different species in this society. You are not just representing a different class. You Conservatives are a different species of being because you show no compassion or understanding for the people.

The reason I speak to you like this today is because I have come to the conclusion, and many people have come to the conclusion, that you're a death to the world and you intend to do whatever you like, regardless. For me, I am here to state my opinion about this matter and I suggest to you that you have lost touch with the society you are supposed to be governing and you should resign. Thank you.

**The Chair:** Thank you very much. Mr Kormos, you have about a minute.

**Mr Kormos:** Well, Chair, and to you, sir, I say, "Well said." While there may be those who would say: "Oh, here's Owen Leach. Who's he?" I suggest that the response to that is that you've reflected the views and attitude of not just yourself but significant numbers in our community. I don't know if you want to comment on that.

**Mr Leach:** Yes, I will say this. I've been driving a taxi in this city for about 18 years and never in my days have I heard so many passengers tell me that they would like to shoot Mike Harris. I have never heard before that ordinary Canadians have said it, because they said, "That man, you know, is Hitler." I drive Wheel-Trans, I drive senior citizens who have said to me, "I would like to get somebody to put him away." He cut the —

**The Chair:** No. Excuse me.

**Mr Leach:** This is the kind of relationship that exists —

**The Chair:** We don't — I'm sorry —

**Mr John Hastings (Etobicoke-Rexdale):** This is completely inappropriate.

**Mr Leach:** — between this government and the people. Everybody —

**Mr Dave Boushy (Sarnia):** Do you agree with that?

**The Chair:** No, Mr Leach. I'm sorry. There is a limit to my patience.

**Mr Leach:** Yeah, I'm only reporting what I've heard.

**The Chair:** We can't be advocating violence. I don't think that's right.

**Mr Leach:** I tell you what I've heard.

**The Chair:** No.

**Mr Leach:** I drive at least —

**The Chair:** Excuse me, Mr Leach. You are in a committee.

**Mr Leach:** Sorry, sir.

**The Chair:** Thank you. Mr Sergio.

**Mr Sergio:** Thanks for coming down to make a presentation to our committee, Mr Leach. You and other groups before you, individuals also, including the police representative, they don't like Bill 105 either. Why do you think the government is introducing a piece of legislation that doesn't make the police happy, doesn't make people like you or other groups happy? Why do you think they are pursuing Bill 105 when they have heard from even our own force and individuals such as you that this doesn't serve anyone? Do you believe they are going to withdraw it and rewrite it? Why do you think they are bringing forward this piece of legislation?

**Mr Leach:** I can't speak for the police. I wouldn't dare to speak for them. But I would say that maybe it satisfies certain sections of the police force and it satisfies the political angle of the Conservative Party. More repression — this centralizes power at the top of the police force. This is the way the government is run and this is the way every institution is to be run — centralize the power.

The police might complain against it for various reasons of their own, but I am complaining about it from the point of view of the people of this city and their recommendations would be totally different from mine. I am for more democratic control over the institutions of this society, and over the police in particular, because it



is an institution that wields coercive power in this society and it has shown itself to be murderous and irresponsible by killing so many people. Lots of black people have been killed. I can leave this with you with all the names.

**The Chair:** Thank you very much, Mr Sergio.

**Mr Leach:** I think I want to see institutions that —

**The Chair:** Thank you, Mr Leach. Our time —

**Mr Leach:** — are controlled by the citizens, the people of this city.

**The Chair:** You are entitled to your opinion for what it's worth. I thank you very much for your presentation here today and I am adjourning this hearing to Tuesday, May 13, at 3:30.

*The committee adjourned at 1745.*





## STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Mrs Marion Boyd (London Centre / -Centre ND)  
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Mrs Margaret Marland (Mississauga South / -Sud PC)  
Mr Mario Sergio (Yorkview L)

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**Staff / Personnel:** Mr Andrew McNaught, research officer

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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 13 May 1997

# Journal des débats (Hansard)

Mardi 13 mai 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

Police Services  
Amendment Act, 1997

Loi de 1997 modifiant la loi  
sur les services policiers



Chair: Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 13 May 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 13 mai 1997

*The committee met at 1532 in room 228.*

POLICE SERVICES AMENDMENT ACT, 1997  
LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen, members of the committee. This is a hearing of the standing committee on administration of justice, consideration of Bill 105, the Police Services Amendment Act, 1997. I see a quorum and we shall proceed.

The first thing, may I have a motion from someone approving a reimbursement of travelling expenses for one of our presenters in the amount of \$38.10?

**Mr Tom Froese (St Catharines-Brock):** Moved.

**The Chair:** All those in favour? Carried. He shall be reimbursed.

ONTARIO NATIVE COUNCIL ON JUSTICE

**The Chair:** Our first presentation today is the Ontario Native Council on Justice, Carol Montagnes, executive director. Welcome. Members of the committee should have received a written presentation, and I'd ask you to proceed.

**Ms Carol Montagnes:** Good afternoon, Mr Martiniuk, members of the committee. My name is Carol Montagnes and I work as the executive director for the Ontario Native Council on Justice. We appreciate the opportunity to make a presentation today on Bill 105.

The Ontario Native Council on Justice was established in 1977 by the major native organizations in the province of Ontario. The purpose was to address criminal justice issues; the impetus was the vast overrepresentation of aboriginal people in prisons. The council is a province-wide representative body made up of two representatives each from the following organizations: the Association of Iroquois and Allied Indians; Grand Council Treaty 3; the Ontario Federation of Indian Friendship Centres; the Ontario Metis and Aboriginal Association; Ontario Native Women's Association; the Union of Ontario Indians; Independent First Nations' Alliance; and the Native Law Students Association.

The mission of the Ontario Native Council on Justice is to support the aboriginal organizations and their repre-

sentatives in the development of initiatives to address justice matters for their people, and while the development of these initiatives occurs, to ensure that those aboriginal people involved in the existing justice system have their needs met in a culturally meaningful manner.

The council is unique in Canada as a representative aboriginal body with a sole focus on criminal justice issues. The council's work entails research, policy development, program development and native awareness training.

As well as the written submission that I've provided to the committee, I will also leave with the clerk of the committee a fact sheet on the Ontario Native Council on Justice which details with its history, the objectives of the council and its many publications over its 20-year history.

There are more aboriginal people living in Ontario than in any other province or territory in Canada. According to the 1991 census, the number was 243,550. Most live off-reserve in urban areas.

This presentation refers to Ontario police services, the Ontario Provincial Police and municipal police services, rather than first nations police services.

It is well known among those working in the justice area that aboriginal people are overrepresented in the prison system as offenders. What is not so well known and what is pointed out by the Royal Commission on Aboriginal Peoples in their special report on criminal justice, entitled Bridging the Cultural Divide, is that more than any other group, aboriginal people are overrepresented as victims as well. Because of this involvement, both as victims as well as offenders, the proposed amendments to the Police Services Act are of grave concern to the aboriginal community.

The first point of contact with the criminal justice system by aboriginal people is the police. For the sake of emphasis, and because the committee will be hearing from Aboriginal Legal Services of Toronto later this afternoon, as well as from the Ontario First Nations Police Commission, I would like to highlight three areas in this presentation: civilian oversight, third-party complaints and the duty to cooperate.

Of particular concern are the changes proposed in the legislation to civilian oversight of police. It is a truism that to know where you are, you have to know where you have been. Looking at the past, at the historical relationship between aboriginal people and police, it is evident why civilian oversight of the police is of concern.

At the Native Peacekeeping Symposium held by the Ontario Native Council on Justice in Thunder Bay in 1990, the aboriginal view of police and policing versus peacekeeping was apparent. It was pointed out by our keynote speaker that in his language the literal translation

of "police" was "one who holds a weapon over you." The historical relationship between aboriginal people and police has not been one to inspire trust.

The aboriginal community is not alone in this regard. The Report of the Race Relations and Policing Task Force of 1989 pointed out the number of extensive briefs and presentations it had received on issues relating directly to public complaints against the police, stating, "A recurring theme in the presentations before us has been the demand for mandatory, province-wide, independent civilian review of allegations of police misconduct against members of the public."

The position paper on civilian oversight of police conduct issued by the police complaints commissioner in October 1996 outlines the studies on public complaints procedures which were produced in the 1970s and traces the development of the office of the public complaints commissioner. The paper points out that policing was considered to be one of the most critical of public services, and although internal processing of public complaints by the police may have been a fair system, it did not appear fair. In 1981, the government responded to growing concerns about the accountability of police officers by creating the office of the public complaints commissioner as a pilot project here in Metro Toronto.

In 1990, in order to respond to public demands for a uniform system of complaints processing and greater accountability on the part of police services throughout the province, part VI of the Police Services Act established a province-wide public complaints system in Ontario. The need for a police complaints body independent of police services, policing organizations and the Ministry of the Solicitor General still exists.

With regard to third-party complaints, under the existing Police Services Act a third party is entitled to file a complaint about a police officer's conduct or a police force's services or policies. Section 57 of the proposed amendments allows a complaint to be made only by a member of the public directly affected, thus eliminating a third-party complaint. The onus to make a complaint to the police and follow through with it will rest solely on the shoulders of the person directly involved. In the case of disadvantaged or marginalized people, how realistic is this expectation?

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Another area of grave concern is the special investigations unit, the SIU. The proposed amendments to the Police Services Act do not address an officer's duty to cooperate with the SIU. This is an area that, in fairness to the officers involved and to the public, must be clarified. It is recommended that the position be taken that subsection 113(9) of the Police Services Act is constitutionally valid until a court determines that it is not, and that procedures be put in place to ensure cooperation.

The following recommendations are made:

(1) That a civilian oversight agency be maintained that is, and that is seen to be, independent of police;

(2) That third parties be entitled to file a complaint about a police officer's conduct or a police department's services or policies;

(3) That a complainant accepting or wishing informal resolution of a complaint do so in a written confirmation;

as well, an advocate should be available to assist throughout the resolution process;

(4) That the complaint system be accessible for all communities, that is, including appropriate educational outreach for information about procedures. It is important that interpreter services be part of this educational outreach, as well as aboriginal agencies, such as aboriginal legal clinics and friendship centres;

(5) That the duty of officers to cooperate with the special investigations unit be clarified and procedures implemented to ensure the required cooperation; and

(6) That resources be provided to the civilian oversight agency and special investigations unit to allow them to properly fulfil their function in a timely manner.

**The Chair:** Thank you. We have one minute per caucus. The government caucus is first. Are there any questions?

**Mr Bob Wood (London South):** There appear to be no questions.

**The Chair:** The opposition, Mr Ramsay.

**Mr David Ramsay (Timiskaming):** Carol, thank you very much for your presentation. I agree with the points you've made and I would be certainly looking at making amendments to this bill that would address most of your concerns. I appreciate your input.

**Mr Peter Kormos (Welland-Thorold):** The issue of subsection 113(9) has been omnipresent, notwithstanding that it wasn't addressed in the amendments. Two proposals have been made: One, that there be a use immunity. I suppose that's drawn from the fact that it would be induced statement anyways because you'd be compelled by law to make it therefore the statement made in this instance by a subject officer couldn't be introduced against that subject officer in any event. That's where the constitutional or charter protection takes effect.

The other one is that there simply be workplace penalties; in other words, you've failed to perform your duties as a police officer, even as a subject officer, by failing to comply with 113(9). Can you comment on either or both of those or another option?

**Ms Montagnes:** I think the main thrust at this time would be that there be a procedure in place and that it be very clear to both the officers and to the general public what that proper procedure is, so that in reading the newspaper accounts of the special investigations unit's investigations the general public is not left with the false impression that an officer is not cooperating for some inappropriate reason.

**The Chair:** I thank you very much for your excellent presentation here today.

#### AFRICAN CANADIAN LEGAL CLINIC

**The Chair:** Our next presentation is on behalf of the African Canadian Legal Clinic, Michelle Williams, policy researcher and analyst. Good afternoon. Please proceed, Ms Williams.

**Ms Michelle Williams:** Thank you, committee members, and all those people who have come today to express their concerns regarding Bill 105. As mentioned, I'm Michelle Williams, policy researcher and analyst with the African Canadian Legal Clinic.



The African Canadian Legal Clinic has a province-wide mandate and is a not-for-profit legal clinic incorporated under the laws of the province of Ontario which was established to address anti-black racism and other forms of systemic and institutional discrimination in the justice system.

To give you an idea of the work that the ACLC has done in the past, we have been granted standing at a coroner's inquest into the shooting death of Ian Coley, an African Canadian who was fatally shot by Constable Richard Shank of the Metro Toronto Police; that same constable having been involved in the latest shooting of an African Canadian, Mr Hugh Dawson.

We have also been granted intervenor status at the Supreme Court of Canada in two cases to date, have made written and oral submissions to the federal standing committee on justice and legal affairs, and most recently have had standing before the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, otherwise known as the Somalia inquiry.

While preparing this brief today, I pondered what I could say to the committee to adequately express the frustration and fear that is experienced by victims of police abuse. I'm not sure what it will take for the public or this committee to understand, but all legislation should be promulgated in the context of the social reality in which we are operating and living.

This legislation is now being proposed in the context of the worst killing spree of African Canadians and other racial minorities by police in recent years. Since January of last year 10 people have been shot by police, six of whom were killed and most of whom were African Canadians. This list does not include in-custody deaths like the horrific death of Kenneth Allen. Most recently a police officer was found guilty in connection with the shooting death of Dudley George, which took place in September 1995. In fact, Metro police are proportionately more likely to shoot suspects than their colleagues in Chicago, Dallas, Houston, New York and the LAPD. These people had their lives violently taken away and have left behind grieving fathers, mothers, partners, children and friends, yet officers have refused to cooperate fully with the special investigations unit. It is in this context that the government is now proposing a bill which will essentially claw back accountability of the police.

I'm here to speak on behalf of the African Canadian community and to speak to Bill 105.

I thought, in addition, about bringing in the dozens of young people I personally have met with who have been beaten by police, sometimes with a telephone book over their heads so there won't be marks, who've been stopped by the police because they "fit the description," who have been strip-searched by police — I'm talking about young kids — and had evidence planted upon them, which we've seen in the news. But most of these kids are too afraid to file a complaint under the current system, or they feel that such action will be futile. They're afraid of retaliation by the police because they've seen it happen to friends and other family members.

I'd like to move now to the bill itself, because I hope I've provided some of the context and emphasized the

importance of police accountability. It's necessary; it's crucial for democracy. We're not asking for anything special; we're asking for accountability of police like all other people in the province if there has been any wrongdoing in any way on the job.

The proposed legislation does not hold police accountable. It proposes a police complaints system that is inaccessible, unfair, partial and will not ensure accountability. It's convoluted and will frustrate those who try to pursue a complaint. Indeed, the proposed complaints system is riddled with one barrier and roadblock after another.

If you'll permit me, I'd just like to briefly go through what a complainant may experience under this new system, which I think might be helpful to show the barriers.

#### 1550

In the first instance, assuming that I have been in some way a victim of police misconduct or abuse and I'm not too afraid to lodge a complaint, I need to figure out how and where to make the complaint. I'm not likely to complain to the force whose members were abusive to me, which is one mode that's suggested in the legislation, although I might. If I do file a complaint at the police detachment, the police do not have to advise the new commission that the complaint has been filed. There's no form that will help guide complainants and ensure that they record all the important information, and there's no advocacy or similar organization to assist complainants at all. In contrast, the police have strong unions and access to legal representation.

Bill 105 provides that all complaints by members of the public are referred to the chief of police. The chief then has the choice of at least four different ways of getting rid of the complaint: They can decline to deal with it if they say, "I'm not directly affected"; they can decline to deal with the complaint if the chief deems it to be frivolous or vexatious; they can characterize the complaint — I'm referring to the chief — as one dealing with policies or services of the police force and therefore not misconduct on the part of the particular officer.

In his statement to the Legislature on January 14, the Solicitor General highlighted a 30-day initial response time in which the chief will get back to the complainant. However, this 30-day response time does nothing to streamline the process. It merely provides the chief with 30 days to decide whether or not he will invoke one of these new barriers to prevent a complaint of police misconduct from proceeding further. I submit that doesn't streamline anything.

You might say the complainant can appeal the chief's invocation of one of the above barriers, but how can that appeal be successful? Information is power, and anyone who has ever tried to obtain information regarding police policies knows this to be true. There's no requirement that the chief give extensive reasons for his decision. How can a complainant, without any advocacy assistance or legal representation, successfully contest a chief's determination?

Even if the chief decides to actually accept a complaint and then investigate, he can determine that the complaint is unsubstantiated and therefore requires no further action.

He can also determine, even if there was misconduct, that that misconduct was not of a serious nature and therefore the matter may be resolved informally. This informal resolution can occur even without the consent of the complainant in certain situations.

If the chief decides that the police officer may indeed have engaged in misconduct, a hearing must be held, as it is the right of every police officer against whom such a finding is made. Note that there is no automatic hearing if the complaint itself is dismissed.

The hearing then brings in a whole new set of barriers. The prosecutor at the hearing may be a police officer. Once again, the complainant will have to hire his or her own lawyer, although the police association or union will presumably provide one for the police. Keep in mind that it's usually the most disadvantaged and disenfranchised members of society who are the victims of this abuse in the first place.

Finally, if a complainant actually gets to a hearing, the new subsection 73(2) provides that an "officer shall not be found guilty of misconduct if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force." Of course these two terms are not defined in the bill. I'm not sure exactly what they mean, but I assume it will have a lot of case law that will show how these police officers did not have a connection to the two terms I've just described.

That is a somewhat convoluted way of explaining to you what a complainant might face. I can't imagine what complainants who have not had the time to become versed in this bill are going to experience when they merely want to get redress for misconduct on the part of the police.

Finally, I have to say a word about the duty to cooperate which was raised by the previous speaker. The duty to cooperate is essential to police accountability. There is nothing more chilling on a citizen's willingness to even come forward about police misconduct than seeing police kill someone and then not be held accountable or not even have to explain what happened in that instance.

The position of the African Canadian Legal Clinic is that section 113 of the Police Services Act requires police to cooperate fully with the SIU. The act does not distinguish between witness and subject officers. The chief of police has the power and obligation to order officers to cooperate pursuant to section 41 of the Police Services Act. Cooperation by police is a job requirement and it is essential to democracy. If a police officer refuses to cooperate, he or she should be dismissed from the force.

The ACLC also takes the position that there is no constitutional right of police officers not to cooperate with the SIU. I should point out that has never been proven in a court of law. A lot of times we assert charter rights and they need to be tested in a court. The average person cannot just assert a charter right in the face of being investigated or charged with a potential offence by police.

Finally, if the police are going to accept the extreme power given to them by the public, then the police must be accountable to the public for the exercise of that power. This is not a choice; it is a job requirement. The

citizens of Ontario have a right to police accountability and the police officers and the Legislature have an obligation to be accountable to us.

If you do what in our submission is right, you will not pass this legislation as it currently exists. Instead, you will initiate a process that involves meaningful participation by the community to improve the system of accountability, and you will read closely and seriously consider the suggestions made by the Coalition of Community Members Concerned about Policing. I'd like to end by saying that there are specific recommendations in addition to that report in my submissions that I will give to you.

You, like the police, are accountable to the people of Ontario. We're here to tell you that this legislation severely erodes the accountability of police and is a dangerous blow to democracy in this province. Please reconsider it.

Subject to any questions that you have, those are my submissions.

**Mr Ramsay:** Thank you very much for your submission. I agree with the points you've made this afternoon and I hope, after all the submissions we've heard in this committee, that the government will have heard some of this message. We've heard a very similar message from all sides of this argument, that this bill is deficient, that it doesn't protect victims' rights and in some cases it doesn't protect the police either in having a clear, visible and transparent process. I think it's got to be transparent, and you make that point very well. I hope the government will acknowledge some of the amendments that will come forward from the opposition.

**Mr Kormos:** You spoke very early about the fear of retaliation by persons who might make complaints against police officers about those police officers' conduct. Can you elaborate on that a little bit? Is it mere fear or is there experience that justifies the fear, at least in the mind of the person feeling the fear?

**Ms Williams:** Clearly in the experience that we've had with people in the community, the fear is justified. If it was safe for people to come forward and make complaints, they would make them. However, what they experience in addition to the misconduct is sometimes severe abuse. It's very difficult in some ways to even talk about what some of these kids have been through. They have seen or have experienced cases in which, where they do make a complaint, suddenly family members are stopped by the police when driving; suddenly another family member or friend fits the description for another crime and ends up in lockup for the weekend and then is released by police. It's those sorts of things that happen.

The police are very powerful. All citizens appreciate that. You can imagine the fear people have if they think they have no recourse for police misconduct. All that we're asking is that a system be put in place that is truly accountable.

**Mr Jim Flaherty (Durham Centre):** Thank you, Ms Williams, for your presentation. I certainly agree with you with respect to the principle of accountability. I think all reasonable people would.

I have some familiarity with the African community in Toronto. In my legal career I acted as counsel for the association of Ghanaians in Toronto and for the Cana-



dian-African Newcomer Aid Centre of Toronto. Indeed, I was appointed honorary consul general for Ghana in Toronto, which I can't serve as now because I am a member of the Legislature.

1600

With respect to accountability and complaints resolution, we have a tendency in this province in the administrative area to create a lot of legal complexities and the delays that go with that. I suggest to you with respect that there may be a place that is worthy of your consideration, as a lawyer and as someone who serves the public, for alternate dispute resolution in the form of informal resolution in an appropriate complaints process. Do you agree?

**Ms Williams:** Without getting into a wholesale discussion about ADR, certainly one of the main principles is that the two or more sides that come to the table have some degree of equitable power. It is very difficult to imagine how a police officer with the full sanction and state apparatus behind him or her can come to the table and the complainant come to the table with the same amount of perceived power. I'm not sure how you would mediate or informally resolve a situation like that.

That being said, there may be cases — and again I would caution to say that the complainant must be fully informed and must appreciate that there are other options, ie, that there's no way they can be coerced into informal resolution of a complaint — in which it is a minor complaint and the person merely wants an apology of some sort and that satisfies them. So long as they realize there are other options available to them, in that instance informal resolution may be appropriate — although I say that with an extreme degree of caution, I must say, because we've seen a lot of times that safeguards that we think might work aren't actually effective at all.

**The Chair:** Ms Williams, thank you very much for your presentation.

#### ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**The Chair:** Our next presentation will be the Association of Municipalities of Ontario, Mr Terry Mundell, president. Good afternoon, Mr Mundell. Members have received a written presentation from AMO. I'd ask you to proceed, sir.

**Mr Terry Mundell:** Members of the committee, I'd like to thank you very much for the opportunity on behalf of the Association of Municipalities of Ontario to appear before you today to present issues related to Bill 105, the Police Services Amendment Act.

I would like to begin my comments by saying that AMO is generally supportive of the direction the government has taken in Bill 105. One of the most important components of this legislation is the recognition of accountable elected municipal governments as the key trustees of Ontario's police services system. Improving governance and accountability for police services in Ontario is also a fundamental component of the financing reform that is embodied in this legislation.

Bill 105 is an important move forward for Ontario. The new framework for police services provides an excellent

example of a critical public service system where provincial interests and province-wide standards are reflected in local decision-making and local management responsibility. Local control over costs completes the picture of a service system that meets the needs of the people who rely on those services, the women and men who deliver them and the governments that account for them.

For municipal governments, Bill 105 is a part of a much larger legislative reform agenda that includes all the Who Does What proposals and a new, permissive Municipal Act. The pace, magnitude and scope of change is enormous and very challenging.

Municipalities have managed reductions in annual provincial support of over \$1 billion over the past five years. The Who Does What reforms that we are currently planning for will remove another \$667 million from municipal budgets in 1998. New policing costs for 576 municipalities are part of that equation, and there is no doubt that this change will have a substantial impact on affected rural and northern communities.

Other communities already contribute approximately \$1.5 billion annually for police services in Ontario. That's 23 cents on every dollar of property taxes currently going into municipal services. It's a very considerable and important part of our responsibility as governments.

Police services are not just a fiscal issue for municipalities. People in Ontario want the best quality of police services they can afford and they want police services that reflect the needs and priorities of their communities. As elected governments, we recognize that. After all, we are fully accountable for public safety in our communities. As employers, we also recognize the needs and the vital contribution of the women and men who serve our communities in police services.

In June of last year, AMO had the opportunity to work together for the first time with all the major stakeholders in the police services community, when the Solicitor General hosted the 1996 police summit. The summit provided a very important opportunity for stakeholders to come together to share ideas and information about needed reforms to the legislation governing policing in our communities. I think it's fair to say that we all learned a great deal from the police summit. We learned about the challenges that all of us face as we work together to provide effective and affordable police services in Ontario. Bill 105 is an important outcome of that process.

While AMO is generally supportive of Bill 105, I would like to convey to the committee a number of comments and recommendations.

Municipalities have been advocating for improvements to the governance of policing in Ontario for decades. The move by the province to abandon the outdated model of governance whereby municipalities had to pay the bills but had no control over the costs will substantially improve accountability for police services in Ontario.

Bill 105 proposes significant changes to the composition of police service boards and to their relationship with municipal councils. It's a very appropriate step forward. Municipalities can be trusted to ensure that the excellent standards of police services that Ontario taxpayers demand can be sustained within balanced municipal budgets. Municipal councils are fully committed and fully

responsible for ensuring that our communities are safe for the people, families and businesses we are elected to represent. Bill 105 provides a clear and better framework for governance and accountability of police services in our communities.

While Bill 105 is quite explicit with respect to the size and composition of police service boards — based on the size of the municipality — provision for the training needs and costs associated with the new police service boards structure is not clear. Additional clarification is also needed with respect to regulations governing the selection and appointment of board members. For now, the process for filling vacancies is unclear.

As I said earlier, linking police financing reform with governance reform is critical. It is true that 576 municipalities currently receiving OPP services without direct cost do not welcome the redistribution of over \$180 million of OPP costs. The financial impacts will be very substantial. However, improvements to governance will go a long way in ensuring that municipalities are equipped to manage new policing responsibilities in a way that is effective, efficient and truly accountable to their taxpayers.

However, many of the options available to municipalities for how to pay for policing are based on OPP costing formulae and their attendant assumptions. Affected municipalities need this information urgently, in order to understand the financial impacts and to make decisions about how they are going to pay for the quality policing their taxpayers require. As accountable funders of police services, municipalities need the full details about how OPP costs will be recovered.

AMO is also very concerned about the proposed amendment to section 7 that will restrict a board from contracting with a neighbouring board for police services. For many communities, that will leave only one option, and that is to contract with the OPP for services. While the OPP will no doubt be the choice of many communities, this restriction is neither necessary nor appropriate.

As you know, restructuring and amalgamation is under way in many parts of Ontario. Over the next few years, restructuring will continue as communities evolve to meet changing responsibilities. It is fundamentally important that our legislative framework, including legislation governing police services, is sufficiently flexible to facilitate change in our communities.

AMO's concerns about policing are not limited to the costs of policing. Municipalities are also very concerned about the value and the quality of police services. Accordingly, AMO supports the need for consistent, province-wide standards, complemented by local standards.

There is no such thing as a one-size-fits-all approach to defining adequate policing standards. Province-wide standards must be developed in full consultation with the municipal sector and other affected stakeholders. Where province-wide standards are appropriate, there must be flexibility to adequately reflect and address local circumstances and needs.

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AMO is pleased that the standards will be set out in the regulations, and not the legislation. This decision

maximizes flexibility and allows for standards to evolve as the priorities and circumstances of Ontario's communities evolve. We will work with the province and police service personnel to ensure that the standards developed meet existing and future needs.

Where new provincial standards lead to higher policing costs, it is incumbent upon the government to ensure that municipalities have access to additional revenue to meet new standards without raising property taxes.

For years, AMO has been pressing for harmonization of municipal labour legislation. Under Bill 84, the Fire Protection and Prevention Act, firefighters will be subject to arbitration requirements set out in the Labour Relations Act. These amendments are welcomed by AMO, as they will assist municipalities in controlling costs while protecting critical services.

Unfortunately, these same amendments are absent from Bill 105. Bill 105 provides additional municipal control of policing costs in one way, through the control of police budgets. At the same time, that control may be undermined by unreasonable arbitration awards exceeding those that are freely negotiated. Further amendments to the Police Services Act are needed in order to fully harmonize all municipal labour legislation.

Finally, I would like to reiterate comments made to the committee earlier by my colleagues from the Ontario Association of Police Services Boards. Transportation of prisoners and security in the courts are not policing responsibilities. Bill 105 fails to respond to the views of municipalities and local boards that duties that do not require the power of arrest should, in the interests of efficiency and cost-effectiveness, be assigned to other government agencies.

Bill 105 is a step in the right direction for better, more effective, efficient and accountable police services in Ontario. The legislation demonstrates the government's confidence in local management of critical services. It also recognizes that full local accountability for services in our communities is a critical component of good government in Ontario. Municipal governments want better government at less cost and there is much that the province can do to help us make it happen.

In closing, I would like to address concerns that have been expressed in some quarters about changes to the Police Services Act. As I have said, policing is much more than a fiscal issue for municipalities. The people of Ontario value quality police services in their communities. They will settle for nothing less. Municipal governments understand that, because we listen very carefully to the people who elect us.

I want to assure the committee that municipalities can be trusted to ensure that the excellent standards of police services that Ontario taxpayers demand can and will be maintained in communities in every part of the province.

**The Chair:** We'll start off with Mr Kormos.

**Mr Kormos:** No, thank you.

**The Chair:** Are there any questions from the government members? If not, Mr Ramsay.

**Mr Ramsay:** Thank you, Mr Mundell, for your presentation. I wanted to ask you, under financing, what reasons you have received from the government why Bill 105 would forbid one town from contracting with another



town's police force. What's the rationale that you've been told?

**Mr Mundell:** I don't honestly know what the rationale is, but I can tell you from a municipal perspective what we need is maximum flexibility to make choices for our communities that represent the types and levels of services that we can both provide and are affordable. With that specific amendment to section 7, it completely eliminates some of those choices. We believe the amendment needs to not be in that particular piece of legislation.

**Mr Ramsay:** Can you foresee any difficulty in that contracting from one town to another?

**Mr Mundell:** I can tell you I have had discussions with some of my municipal colleagues across Ontario who have already raised the particular concern with me. There is the belief that in communities there may be the willingness, the want, the efficiencies and the ability to provide policing services by communities side by side. It makes good business sense. It also makes good sense in terms of protection. I think that's what our communities and the municipal sector are looking for, and that's what our ratepayers expect.

**Mr Ramsay:** Chair, could I ask the parliamentary assistant what the government rationale for that is, why that's forbidden in the legislation?

**Mr Bob Wood:** I'm going to reserve comment until we actually hear all the submissions. We'll have to answer that when we get to the clause-by-clause.

**The Chair:** Mr Mundell, thank you very much for your presentation.

#### ONTARIO PUBLIC INTEREST RESEARCH GROUP, YORK UNIVERSITY

**The Chair:** The next presentation will be the Ontario Public Interest Research Group, York University, represented by Macdonald Scott, Leslie Norville and Winston Williams. I should advise the members of the committee that we are presently making copies of the presentation and you will receive same during or soon after the presentation. Please proceed.

**Ms Leslie Norville:** Good afternoon. OPIRG York, also known as the Ontario Public Interest Research Group at York University, is a student-run organization that does popular education and advocacy work around social justice and environmental issues. An issue we are working actively to resist is racism and how it manifests itself in different ways within our society. This means addressing systemic racism as well as racial discrimination.

We have come here today to voice our concerns regarding Bill 105. Bill 105 proposes three major changes to the current Police Services Act: (1) financing, (2) governance, and (3) civilian oversight. In the time allotted to us we will try and touch on these three areas. The changes the Harris government is trying to implement will severely reduce the fairness, accountability, accessibility and thoroughness that are achieved by police services boards.

When we say "governance," we are referring to how police services are governed. This means who appoints members of the police services boards and access to the appointment process. Governance should take into

account the need for communities to have meaningful participation in public institutions like police services boards. Meaningful participation is necessary in order to hold the police accountable. The proposed amendments, if made, will further reduce the ability of communities, especially marginalized communities — for example, communities of colour, aboriginal communities, women, the homeless, mental health patients and the gay and lesbian community — to hold police accountable and to see justice served in the case of police wrongdoing.

Bill 105 proposes to expand the power of the Lieutenant Governor to make regulations regarding police services boards. This would mean giving the Lieutenant Governor in Council the power to make and implement regulation that should go through as legislation in Parliament. This would include deterring classes of persons ineligible to serve as board members, selection and appointments of members of boards, training for board members, as well as a code of conduct for members, government records, returns, books and board accounts. These proposed changes create less accountability, the reason being that regulation is more flexible and goes through less scrutiny than legislation, because it is not passed in the Legislature and does not receive the checks from any opposition in Parliament. Consequently, there will be fewer challenges to any regulations. This takes away almost any ability for communities to have input into any regulations that will be made.

If these changes are allowed to pass this may also mean that the government will have the ability to restrict certain prescribed classes of people who are ineligible to sit on police services boards. Such discretionary power to determine who sits on the board could be abused and a board could be stacked in favour of the police.

#### 1620

**Recommendations.** The government's ability to introduce, via regulation, restrictions on classes of people who are eligible to sit on police services boards should be removed. If such power persists, appointments should be made with meaningful input by concerned community groups. Changes to structure of police services boards take place within that broader framework of community-based policing. It is also crucial that members of police services boards be accountable to marginalized communities and have representatives from these same communities.

**Mr Macdonald Scott:** Greetings from the Ontario Public Interest Research Group. I would like to draw your attention to a few points in addition to those raised already.

The process of Bill 105: First off, I'd like to comment on the process involved in the creation of Bill 105. OPIRG has worked closely with the Community Coalition Concerned about Civilian Oversight of Police, C-COPS. In its report, *In Search of Police Accountability*, C-COPS raises concerns about the way the provincial government worked closely from the beginning with the police to draft Bill 105, while including community organizations only in the final stages.

OPIRG along with C-COPS is distressed that the legislation was drafted by January 14, 1997, prior to the government's receiving the C-COPS report and without



notifying the coalition or other community groups. Meanwhile, leaked reports of a summit held in June 1996 with the police, and later post-summit meetings which included assistant Deputy Solicitor General Fred Peters, police service boards and other police associations show a much different relationship with police than with community groups.

The current situation: "Systemic discrimination in police practice remains widespread and deeply felt." That's from the report of the Commission on Systemic Racism in the Ontario Criminal Justice System, December 1995, article 337.

The current situation around policing in communities of colour and the poor is one of suspicion and intimidation. Uniform Treatment, released in 1994, illustrates that day-to-day intimidation and violence are a general part of policing in these communities. That's Uniform Treatment: A Community Inquiry in to Policing of Disadvantaged Peoples, 1994.

In this climate, the struggle to obtain an accessible, accountable and civilian-controlled process for investigating police misconduct is much more difficult. Bill 105, by making complainants report complaints directly to the station where the problem originated, by making the chief directly responsible for the majority of adjudication of complaints, by making it possible to belittle a complaint with an informal process, by getting rid of third-party complaints etc, has made it likely that the majority of complaints from people of colour and the poor will never be filed, for lack of accessibility and for lack of any likely results from this new system.

Governance: My comrade has touched on issues of governance which are often not dealt with in terms of Bill 105. I would like to add one other note: When 105 is taken in terms of other downloading by our current government, the situation becomes extremely tenuous. Local property taxpayers will be required to choose between funding social services to support the poor or funding police to control the poor. Past experience has shown that property owners will choose the latter.

Currently, in an atmosphere where drop-in centres, hospitals etc are being shut down, Metro Toronto pours 50% of its budget into policing. Despite the statistical proof that violent crime rates are dropping, a belief persists in the middle classes and property owners that more police are needed. It is extremely likely that Bill 105 will lead to a decrease in municipal social services.

My next item is the special investigations units. With regard to the special investigations unit, our group and others in the Coalition Against Racist Police Violence, CARPV, are concerned about the lack of enforcement around subsection 113(9) of the Police Services Act which requires the full and timely cooperation of police officers and the SIU. We adopt the recommendations of C-COPS in this regard, which are attached, and I'll just read through those if that's okay.

"Criminal conduct and the special investigations unit — Duty to cooperate:

"(27) That subsection 113(9) of the Police Services Act be amended to require that any officers involved in an investigation falling within the jurisdiction of the SIU be required to turn any requested information and evidence

over to the SIU forthwith, and in any event no later than 24 hours after the request.

"(28) That the government should take the position that subsection 113(9) (as it currently reads and with the amendments recommended herein) is constitutionally valid. Therefore officers who refuse to give information or provide evidence should be charged with obstructing justice (in addition to other consequences as recommended below) unless and until a court of law has determined that subsection 113(9) is unconstitutional. Criminal charges should also be laid where there is evidence to support the charge.

"(29) If it is determined that subsection 113(9) is unconstitutional a new regime should be fashioned around the obligation of the subject officer to cooperate with the SIU as a condition of employment which would provide employment consequences for the officer who refuses to provide an account of his or her actions.

"(30) Specifically, a subject officer who does not cooperate should be suspended or dismissed from the police service as a failure to meet a condition of employment.

"(31) That the Police Services Act regulations be amended to provide that the director of the SIU is authorized to charge any officer who fails to provide information or evidence in a timely fashion with a misconduct offence.

"(32) That the Police Services Act regulations be amended to provide that when the director of the SIU informs a chief of police that an officer under the chief's command has failed to give a complete statement to an SIU investigator, the chief shall suspend the officer forthwith without pay."

In conclusion, 12 years ago today in Philadelphia, the world watched horrified as the actions of a police force had reached the limits of unaccountability. In an unprecedented act, the Philadelphia police force dropped a bomb on the Afro-centric peaceful MOVE commune, killing 11 innocent MOVE children, women and men.

Since that time, investigations have blown wide open the corruption and illegality of that department and a \$1.5-million lawsuit against the department has been successfully won by MOVE survivors. This act was not because of the willful madness and meanness of a police chief. This act was not because of the racism of individual officers. This act was the result of an atmosphere in which police officers felt they could literally get away with murder. It is our view at OPIRG that Bill 105 is another step on the road to this atmosphere in Toronto, and we promise to fight every step of that road.

In closing I'd like to quote MOVE coordinator John Africa:

"...when a person sends innocent people to prison, those who think this violation stops with the victim are as much a prisoner of the tyrant as those behind the prison wall. When you endorse the system that causes your brother to complain you lose the right to complain when what is devastating your brother begins crystallizing to you. It is past time for all...people to release themselves from the deceptive strangulation of society, realize that society has failed you, for to attempt to ignore this system of deception now is to deny you the need to



protest this failure later. The system has failed you yesterday, failed you today and has created the conditions for failure tomorrow."

OPIRG stands with the Community Coalition Concerned about Civilian Oversight of Police in calling for an end and for the destruction of Bill 105.

**Mr Ramsay:** Thank you very much for your presentation. You have made a lot of good points and there's one I want to comment on too, and that is the so-called, as the government would say, streamlining of the process that gets rid of third-party complaints, and I certainly want to put it on the record.

What do the government members feel that a person with a mental disability, maybe somebody who is illiterate, would be able to do the way this legislation is written? There needs to be some sort of facility in this legislation to allow for some representation of a complaint. I think you reiterate that here and that's something I'd like to see the government move on.

**Mr Kormos:** One of your footnotes is the report of the Commission on Systemic Racism in the Ontario Criminal Justice System, which is not an old report; it's a fairly recent one. It doesn't reflect the insights of 20 years ago; it reflects the insights that I believe even two years later are very, very current.

Have you formed a conclusion or an impression as to the impact of that report and the implementation of its recommendations? Have you formed any assessment as to whether there has been any meaningful implementation of the recommendations?

**Ms Norville:** To my knowledge, there hasn't been any implementation of any of the recommendations made by the report. They have just been ignored, basically, by the police and by the police services boards. Sorry, I'm very nervous — but to my knowledge there hasn't been any implementation.

**Mr Kormos:** You're nervous? I've been nervous since June 1995. Have you reached any conclusions about — again, I appreciate this is speculative, it's not entirely fair — the failure to implement meaningfully the recommendations of that report? What do you see as flowing from that?

**Mr Scott:** I think that was a very radical report. It came to a lot of conclusions that people of colour and other people in this province had already come to. I think it's an indictment of this current government to show that this report has been swept under the rug. There's basically, in an atmosphere and a government of downloading of costs and of streamlining of services, just no commitment to any fulfilment of that.

1630

#### ONTARIO FIRST NATIONS POLICE COMMISSION

**The Chair:** Our next presentation will be the Ontario First Nations Police Commission, regional Chief Gordon Peters, representing the Chiefs of Ontario. Wallace McKay, Ontario First Nations Police Commission. Ms Keeshig, researcher-analyst. Gentlemen, welcome. Whoever is making the presentation, could they identify themselves for Hansard?

**Mr Gordon Peters:** I think we're going to do this in two parts.

**The Chair:** Okay.

**Chief Peters:** We'll be within our allocated time. My name is Gordon Peters. This is Wally McKay sitting next to me, from the Ontario First Nations Police Commission, and he's going to do the first part, in relation to where the commission is at and the things we're doing, and then I'll look at some of the recommendations, and you can ask some questions at the end.

**Mr Wallace McKay:** Thank you very much, Regional Chief. The members must understand that first nations in Ontario are not creatures of the provincial government; we do not equate ourselves with the municipal governments. As you may have learned from history, we seek to establish a third order of government in Canada, and that is the goal of the first nations in Canada.

The amendments to Bill 105 touch on a number of issues: governance, the revenue financing aspects of it and the discipline areas. In the act, there is a special section dealing with aboriginal policing. We have the financing arrangements through the federal government, which are negotiated every five years under a tripartite agreement. The policing services and the costs are covered within that particular agreement.

We have certain concerns about the prospects of the changes in Bill 105. Although it does not directly address or state in the act regarding first nations' policing, we believe the impacts will be back-doored through those changes. We have received a number of referrals from the first nations, where they've had agreements and contracts with the OPP for specific policing services, where the district police services have approached the first nation and informed the first nation that the contract is no longer valid by virtue of the new financing arrangements in the act.

Those are the concerns we have in those areas. Basically, we have concerns in the area of financing, that first nations will be undermined and that the existing arrangements of policing and finances have been overlooked; secondly, in the area of discipline, we need to be able to be assured that through these amendments there will be no flagrant abuse of authority.

Our people have been subjected to police services over long periods of time, and there has been excessive abuse in many cases. We don't need to open up the history books on this matter, but there has to be a form of discipline in the process, how it's going to be done. I wanted just to open with those comments to bring to your attention the concerns we have, and it's recorded in the documents you have before you.

**Chief Peters:** One of the things we wanted to be able to do today is to make some recommendations that will try to deal with some of the specific issues we have with the overall policing program right now within this region.

Wally raised the issue around financing. What we would like to be able to have out of this particular process on financing is a protocol that would lay out the parameters of the financial arrangements we have. In particular, we think the federal dollars that are being transferred into the pot should be transferred directly to first nations so that first nations can themselves deal with



those dollars that come to them. Of course, there would have to be an agreement, at the discretion of the first nations, about exactly how those dollars would be identified. We're involved in tripartite and bilateral contracts with the Ontario Provincial Police. We think in the discussions on financing all those things will be put on the table and we could determine in those protocols what should go to first nations.

In the area of governance, we think right now we need to begin some discussions on protocols that would ensure first nations authority in being able to deliver in the area of police services. Again, one of the things we require is some ability to be able to sit down with government and try to figure out and clarify matters of jurisdiction in relation to policing of first nations territories.

With some of the discussions that have gone on in the last number of years and the couple of court cases that have gone ahead, there needs to be that discussion in terms of the jurisdiction of the police in relation to the authority of the community. That's something we need to do as well so that we're very clear on who has authority in what particular area and how that authority gets exercised and what role the OPP have in relation to the constables in the community as well as with the chief and council.

In the area of civilian oversight, we've always supported the need for an independent civilian oversight system that would be accountable and fair. In this case, we're going a step forward. We think civilian oversight needs to be accountable to aboriginal people; that we need to have a vehicle ourselves that in fact deals with those kinds of accountabilities to our own communities.

One of the things we've found in the past is that there have been a lot of complaints that are dismissed by the OPP, that are simply tossed out the door and they're never dealt with again. We think there has to be accountability on all the issues that are raised and all the complaints that are lodged.

We recommend that the Ontario First Nations Police Commission be given the authority to be able to receive, conduct, review, investigate and render a decision with respect to complaints made against the Ontario Provincial Police by first nations citizens. We think the Ontario Solicitor General and the federal Solicitor General should participate in the process of deciding exactly how that would work.

Why we make these kinds of recommendations is that we've tried in the best ways we can to ensure we have a working and cooperative relationship with the Ontario Provincial Police. I think the idea of that trust that needs to be established is no longer at the point where people feel they can openly and honestly say they would participate and work with the Ontario Provincial Police in matters. I'm referring to the Ipperwash incident and the shooting of Dudley George. The impact it has had on our communities to this point right now is that people are saying we need to start looking after our own business within our communities. We need to be able to have some kind of civilian oversight that supports first nations people directly and which first nations can relate to and trust and know that all of their complaints are going to be dealt with in that particular process.

1640

The recommendations around financing, governance and civilian oversight are in that general direction we're heading in, trying to establish our own authorities within our own territories. We believe the committee can make some of these kinds of recommendations in relation to the processes we deal with at the political level right now, because we don't have that kind of ongoing dialogue with this particular government. We think this committee can give us a kickstart in being able to get some dialogue going in these respective areas we've tabled today.

That's our presentation on these issues. They're contained in the brief that's set out here today. If you have any questions, we said that we would get Jocelyn to answer those questions. Wally and I will answer any questions you have today.

**The Chair:** We've got a little over a minute per caucus.

**Mr Ramsay:** Mr Peters, thank you very much for coming and, Wallace also, for your presentation. I'm very much a supporter of aboriginal self-government. I take seriously your request today that maybe this committee could help kickstart those sort of discussions that might lead to your taking over the responsibility of policing. I take it from your request that you feel you're ready for that today in Ontario. I know I tried to start that when I was Minister of Correctional Services at one time. If that's what you're saying, I would like to be part of that, to help facilitate those discussions. If you're saying first nations in Ontario are ready to take over policing, I think that's probably the way to go, to work incrementally on different functions of government, and maybe policing is an area that is a good start.

**Chief Peters:** We have a number of communities that are already moving ahead, that are already part of standalone agreements that do a lot of that work. We need to take it a little bit further in terms of being able to clarify the jurisdiction they have. We think we're ready to take this on. We've had the Ontario First Nations Police Commission for some time. Through successive governments we've tried to negotiate more authority and responsibility for the commission. We think this is the time that it really needs to take off.

**Mr Kormos:** Please, what consultation was there with you in the course of preparing this Bill 105 prior to first reading?

**Mr McKay:** There was no consultation with the government regarding the amendments to the act.

**Mr Kormos:** You became aware of Bill 105 only after it received first reading?

**Mr McKay:** Yes.

**Mr Kormos:** You weren't even made aware that the government was in the course of preparing amendments?

**Mr McKay:** No.

**Mr Kormos:** I should say thank you. I appreciate your responses, but it's not a situation to be very thankful for.

**Chief Peters:** One of the things, though, that I have to say is that in the urban area a lot of our people were involved in one particular area. That was the civilian oversight. I was asked to participate in that process, and I did so because our citizens are in urban areas as well. We did make a presentation to the Solicitor General,



however briefly. But I need to also say that the response we got was that there was a certain deadline that was going to take place. The deadline for making a response was already past the time frame; the legislation was moving ahead. So it was not a meeting that had any substance to it.

**Mr John O'Toole (Durham East):** If I may, just a quick comment. Thank you for your presentation. I am not that familiar with all of the jurisdictional issues with first nations people, so forgive my ignorance. Just picking up on what Mr Kormos said, he was asking if you had been consulted. I'm trying to clarify in my mind; I don't know whether it was you, Mr McKay, or Mr Peters who said you come under no jurisdiction of the province. Is this right? You don't come under the provincial laws as they stand currently? You suggested your concern was that it might come in the back door, to use your words. I'm trying to clarify really, and I mean that sincerely: Are you part of any of this anyway?

**Mr McKay:** All the first nations were under the jurisdiction of the federal government previously.

**Mr O'Toole:** I know that.

**Mr McKay:** The discussions between the federal government and provincial government transferred that responsibility for policing over to the provincial government. It is only recently, through the negotiations of the policing agreement, that the first nations have begun to put their foot in the door to open those discussions. What we see happening is that although there is no specific mention about the first nations in those amendments, the impacts are going to be done through the back door.

**The Chair:** I thank you very much for your presentation here today, lady and gentlemen.

#### ABORIGINAL LEGAL SERVICES OF TORONTO

**The Chair:** Our next presentation — at 4:45 there is none. We hopefully can proceed to Aboriginal Legal Services of Toronto. We have a written brief from them. Is anyone present from the Aboriginal Legal Services of Toronto? You are Kimberly Murray, the staff lawyer, I take it?

**Ms Kim Murray:** Yes, Kim Murray. I'm with Aboriginal Legal Services of Toronto. I'm a staff lawyer there and I've been working there for over two and a half years.

Aboriginal Legal Services of Toronto has been involved with policing issues for a number of years. We are currently a member of the Community Coalition Concerned about Civilian Oversight of Police, which released the report *In Search of Police Accountability*. In addition, we were a member of CAPV, the Coalition Against Police Violence, which produced the report *Uniform Treatment: A Community Inquiry into the Policing of Disadvantaged Peoples*. The legal clinic belongs to these coalitions because we see police abuses against members of our community on a weekly basis.

Aboriginal Legal Services is a community legal aid clinic which was created to service the Metropolitan Toronto aboriginal community. The recent Royal Commission on Aboriginal Peoples reported that approximate-

ly 50% of all aboriginal people in Canada live off reserve. The royal commission further reported that the estimated number of aboriginal people migrating to the urban centres will grow by 43% in the next 25 years. It has been estimated that approximately 70,000 aboriginal people reside in the Toronto area alone. These numbers show that the urban aboriginal community is a large segment of the community that Ontario's police are required to serve and protect on a daily basis.

Aboriginal Legal Services of Toronto's mandate is to assist the urban aboriginal community to obtain control over justice-related issues. Policing is a justice-related issue which has a tremendous impact on our community. The justice committee may be aware of the fact that a number of studies have shown that aboriginal men and women are overrepresented in Canada's criminal justice system. We know that the police play a large role in the justice system, often having first contact with both the alleged offender and the victim. It is our submission that the actions of the police contribute to the overrepresentation of our community in the prison system.

RCAP's *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* indicated that the aboriginal community in Canada is overpoliced as compared to non-aboriginal communities. Quoting Tim Quigley, the commission described the issue of overpolicing as follows:

"Police use race as an indicator for patrols, for arrests and detention.... For instance, police in cities tend to patrol bars and streets where aboriginal people congregate, rather than private clubs" frequented by white patrons. "To operate patrols or to allocate police on [this] basis...can become a self-fulfilling prophecy: Patrols in areas frequented by the groups that they believe are involved in crimes will undoubtedly discover some criminality...."

"Consider, for instance, the provincial offence of being intoxicated in a public place. The police rarely arrest whites for being intoxicated in public. No wonder there is resentment on the part of aboriginal people arrested simply for being intoxicated. This situation very often results in an aboriginal person being charged with obstruction, resisting arrest or assaulting a peace officer. An almost inevitable consequence is incarceration.... Yet the whole sequence of events is, at least to some extent, a product of policing criteria that includes race as a factor and selective enforcement of the law."

#### 1650

Aboriginal Legal Services of Toronto supports the creation of an impartial civilian oversight system. We believe that for a civilian oversight system to be effective, it must be accountable, accessible, fair and responsive to the aboriginal community.

Both coalition reports that ALST was involved with addressed the issue of police accountability. Both reports recommended the elimination of the police investigating the police. Bill 105 completely ignores the community's recommendations in this regard. The bill not only fails to enhance police accountability; it effectively eliminates any accountability that presently exists. The result is that Ontario's aboriginal community has no confidence in the province's policing system.

ALST believes that Bill 105 erodes the accountability, accessibility, fairness and responsiveness of Ontario's civilian oversight system in the following four ways:

- (1) It removes the requirement of the police having to notify the civilian oversight body of complaints received.
- (2) It no longer allows third parties to file a complaint.
- (3) It makes the chief of police the judge and jury of the entire police complaint process.
- (4) It fails to address the problems that exist with the SIU.

I would like to take this opportunity to touch upon each of these four points.

Under the present system, a community member may file their complaint at the police station or with the police complaints commissioner. If a complaint is filed with the police directly, the station where the complaint was received must notify the OPCC of the complaint. This notification requirement has been eliminated by Bill 105. Pursuant to the bill, the civilian oversight commission will be kept in the dark about any complaints filed at the police station. This secrecy can hardly be seen as promoting accountability.

It is ALST's position that true accountability can only be achieved when full disclosure regarding each and every complaint received from the public is provided to the civilian oversight body. Without this, the systemic discrimination that exists in the policing structure cannot and will not be addressed.

A second concern we have is that third parties are no longer entitled to file a complaint. Section 57 of the proposed amendments states that a complaint may be made by a member of the public only if the complainant was directly affected. Pursuant to the existing Police Services Act, a third party such as a relative, a witness or a concerned citizen is entitled to file a complaint.

This elimination of the third-party complainant will have a disproportionate and negative impact on the aboriginal community in Ontario. Most victims of police abuse that I meet choose not to file a complaint for two main reasons. First, they see no point in complaining, as they are rarely believed. Secondly, they fear for their safety.

The numbers show that it is the disadvantaged and marginalized members of the community who are more likely than not to be the victims of police abuse. These victims often have no knowledge of how to file a complaint. Often the person has been the target of police abuse on so many occasions that they have accepted the mistreatment as part of their daily routine. Whatever the reason for the individual not complaining, the police should not be permitted to hide behind this shield that Bill 105 is creating. Third-party complaints must be accepted. Being accountable means being accountable to the entire community, and that includes the disadvantaged and marginalized people of Ontario.

An additional concern that ALST has with the elimination of the third-party complaint is that agencies such as ours will no longer be able to question police policies and procedures. For example, if we were to hear 10 different accounts from 10 different women that they had been strip-searched in a booking room with five male police officers watching, we would complain. However, pursuant

to Bill 105, nothing would be done unless we could convince one of our clients to file a complaint personally within the short 30-day limitation period. If none of the women agree to file a formal complaint, nothing will be done with respect to the department's strip-search policy, or lack of policy.

Bill 105 also removes the civilian oversight's power to make recommendations with respect to police policies and procedures. This amendment clearly does nothing to enhance police accountability. It merely provides police wrongdoing with immunity.

A third issue we have with the bill is that it hands over enormous powers to the chief of police, powers which only the civilian oversight body should have jurisdiction over. Bill 105 provides the chief of police with the power to determine whether a complaint relates to police policies or services, or whether it relates to the conduct of a police officer. If the chief decides that the complaint relates to police policies or services, he can choose to take no action or take any action that he or she deems appropriate.

The chief is not required to notify the complainant that a decision was made to take no action. This is a clear breach of the complainant's common-law right to procedural fairness. How can a complainant appeal the chief's decision to take no action if the complainant is not even notified of the decision and no reasons for the decision are provided? This section of Bill 105 is just begging for a judicial review.

If the complainant is notified of the chief's decision to label a complaint as a complaint against police policies or services, the complainant may appeal this decision to the police services board. No appeal is available to the civilian oversight body. The effect of this amendment is that the civilian oversight body will have no input with respect to police services or policies. The police will create and implement policies as they deem appropriate, with no consultation with the communities they are supposed to be accountable to.

A second power which Bill 105 grants to the chief of police is that all investigations of misconduct will be conducted by the chief. During the investigation, the chief is no longer required to provide monthly reports to the civilian oversight body. In addition, the civilian oversight body's power to initiate an investigation on its own motion has been eliminated. This is not a fair process because there is no check in place to ensure the investigation of the chief is thorough and impartial.

The third power which the chief has been granted which we are concerned with is the chief's power to impose mediation on the parties. There is no obligation to give reasons for the decision to impose mediation. No consent is needed by the complainant. This process is not responsive to the complainant's concerns.

Mediation only works when both parties are agreeable to the process and when no power imbalance exists between the parties. With a police complaint, the offending officer will almost always have the power. They will be represented by their union-appointed lawyer and they will be before a mediator who is also a member of the police community. ALST supports the notion of an informal, speedy resolution; however, the process must be voluntary and not imposed by the chief of police.



The fourth power that I would like to comment on is the chief's sole discretion to hold a hearing. There is no provision in the bill for the civilian oversight body to order or hold a hearing at first instance. Pursuant to this amendment, the chief of police is acting as both the investigator and adjudicator of police complaints. This creates an inherent bias within the system in favour of the police.

I would like to say a few words on the bill's failure to address the existing SIU problems. The special investigations unit was created in 1990 to investigate the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. The following are a few examples of aboriginal deaths and injuries which the SIU has investigated over the years: Michael Fox died in a holding cell in Kenora; Orvel Wesley was shot and killed in Cat Lake; Dudley George was shot and killed at Ipperwash; Bernard George was beaten at Ipperwash; Nicholas Cottrel was shot and injured at Ipperwash; Joseph Pahpasay died in his holding cell in Kenora; Elvis and Morris Keewatin both drowned at Grassy Narrows while in police custody.

All of these investigations have left the aboriginal community dissatisfied with the SIU. Even with the recent conviction of Kenneth Deane for killing Dudley George at Ipperwash there is a sense that justice has not been done. So much more information is out there that will lead to the truth. The community wants to know who dispatched the OPP to Ipperwash that day and what instructions were given to the officers. Aboriginal Legal Services of Toronto supports the call for a public inquiry into Ipperwash. It is apparent that the SIU does not have the resources or power to get to the truth.

It is recommended that the SIU's mandate and power be clarified and enhanced in the Police Services Act. It is also recommended by Aboriginal Legal Services of Toronto that the duty to cooperate, as contained in subsection 113(9) of the Police Services Act, be amended to clarify the constitutional validity of the requirement that officers cooperate with SIU investigations. If an officer refuses to cooperate, they should be charged with obstructing justice. At the very least, they should have to face employment discipline.

In closing, Aboriginal Legal Services of Toronto supports and endorses all of the recommendations contained in the coalition report, entitled *In Search of Police Accountability*, and urges the justice committee to fight for its implementation in Ontario. Bill 105 must be disposed of and a new set of amendments must be brought forward which create a civilian oversight system which is accountable, accessible, fair and responsive to Ontario's communities, which includes Ontario's aboriginal communities.

**The Chair:** We've used the allotted time. I thank you very much for your presentation.

1700

JAMES JEFFS

**The Chair:** We're getting a little ahead; however, I'll just call them out. The next presenter scheduled for 5:15 is Mr Ted Footman. Is he present? If not, we'll proceed to Dr James Jeffs. Is he present?

**Dr James Jeffs:** Yes.

**The Chair:** Welcome, Dr Jeffs. We'll take you a little out of order. Is that okay?

**Dr Jeffs:** That's fine with me.

**The Chair:** Please proceed then.

**Dr Jeffs:** First, I'd like to thank the committee for taking time to hear my presentation regarding Bill 105. The area that I have a particular concern with is the extra power that will be given to police to handle complaints. For the past three and half years I've been dealing with the existing police complaints system, and just in the investigation process and the reporting I've found a lot of bias towards police officers. To demonstrate this I'll just briefly describe the circumstances that led up to our complaint and then how it was handled.

On August 4, 1993, my son was killed in an automobile accident. When the police notified us of his death there was a lack of compassion and a lack of professionalism. He asked our 19-year-old son to drive 20 miles to notify his older brother of the death. When my wife arrived home, and the police were still at the house, I told her what had happened and she collapsed on the steps.

The only thing the police said was, "Try to notify next of kin as soon as possible so we can get out a press release." They phoned me back at midnight to see if we had notified next of kin so they could do their press release.

Within a week after we'd buried our son we went to the police department to express our concerns that there seemed to be a problem in the notification process. The police officers there seemed to agree and they told us what had happened at the actual accident scene.

A short period thereafter I saw the police report of the accident. The report was unrelated to what the police had told us, it was unrelated to what the other person involved in the accident had put in his statement, and it was unrelated to what the witness said, which I could not understand.

This had a number of effects. One thing, I guess it had an effect because they were placing the blame on my son for this accident and I had a need to stand up for his rights. Also, he had a daughter, so any legal action that we may take part in against the other driver would be jeopardized by this report, which was inaccurate.

I sent a letter to the superintendent of the department and he replied, saying that the report did not accurately describe the incident, and yet he sent the same report to the coroner and the crown attorney to see if any charges should be laid.

Some time later I discovered there was an independent witness at the scene. The independent witness came forward. He said he saw the vehicles as they approached this intersection, offered to make a statement and, basically, the officers wouldn't accept it.

After this happened, so many things didn't seem right that I wrote a letter to the Solicitor General and he directed me to send the letter to the complaints commissioner. When I did that, I found that because a period of time had elapsed — over six months — they would not accept my complaint. I had to do a series of things to explain why I hadn't made the complaint at that point in time and eventually they did accept the complaint.



The investigation actually started one year after the accident. It took two years to investigate and to respond to my complaint. It was actually three years from the time I initially made a verbal complaint.

When I did receive the complaint, certain things were obvious. One was the lack of objectivity. Just to give you an example, when the investigating officer took statements from the various officers and the witnesses, the superintendent indicated that an accident reconstruction engineer who I had hired agreed with the police findings. I sent that letter to this accident reconstruction engineer and I have a copy of his response here. He said there is no way he ever implicitly or explicitly agreed with anything the police said, yet that's what went in the report.

When I finally got the chief's report I expected some sort of acknowledgement that there had been errors made and there would be something done to try to correct them, but nothing was further from the truth. In his report he said that the officers were compassionate and professional when they dealt with us at the time of our son's death, which seemed rather odd because this superintendent who I spoke to at the time was so dismayed with the notification that he appointed a committee to come up with a protocol for officers to use in the future when it came to notifying people of someone's death. I know that occurred because I was on the committee.

He said the report was fact-based, which is totally opposite to what the superintendent who read the report said. When the chief did his overview, he accepted a speed estimate of my son's car 2 kilometres up the road from where the accident occurred, and that was while my son was passing another car. He ignored the speed estimate of a witness near the scene. He ignored the speed estimate of this expert in accident reconstruction. He never replied to the question of why this witness was never interviewed. He never really explained why this division commander would send a report which he knew was inaccurate to a coroner and to the crown attorney. Perhaps the saddest thing of all, after a two-year investigation and a 17-page report, there was no recommendation for any positive change.

The officer who made the original report had attributed false statements to the other driver who was in the accident and to a witness, yet he still feels he did the right thing. He's still out making reports and, I assume, doing the same thing.

I think the problem we see here is that police are handling complaints about themselves. In this particular situation there was a sergeant investigating a complaint about a superintendent, and an inspector. Then you have the chief of police responding to a complaint about fellow officers, in this case, once again, a superintendent and an inspector whom he works with every day, whom he maybe goes to dinner with, plays golf with. It's just an unrealistic situation.

I think it's not so much a problem with the officers themselves; it's a problem with the system. Humans, by nature, are social beings. I think we tend to group together in support groups, whether it be unions or professional groups or church groups. We seem to need those support groups. To expect an individual from a support group to actually investigate and complain about another individual just doesn't work. I think it's unfair to

the individual because that individual, being a police officer, can be ostracized from his group. It's unfair to the public because it's impossible to get an unbiased opinion.

I think what we have to do is sit back and look at the purpose of the complaints system. If the purpose is to rapidly process complaints at low cost, I just think that's wrong. If the purpose is to focus on problem areas so that those problem areas can be fixed, then perhaps that's what we should be doing.

I mentioned cost, and cost is a factor in anything. In a recent article by the deputy chief in the St Catharines Standard, he indicated that the number of complaints against the Niagara regional police in 1992 was 165 and it dropped to 107 in 1996, a 35% drop. Surely, the way to deal with cost is to increase the level of competency of police officers, and that's exactly what the deputy chief said had happened. They had extra training programs and police officers were performing better. There were fewer complaints.

1710

There's another cost as well. There is a human cost to families like ourselves who are trying to deal with the death of a son or daughter, and at the same time, must deal with a police system or a complaints system that just doesn't work. The current system is designed to frustrate and discourage all but the most tenacious complainants. It doesn't matter what you do; you always seem to run into roadblocks.

I would suggest that you please consider this human cost in your deliberations about Bill 105. Giving police chiefs more power to handle complaints makes an unjust system even worse. The appointment of an independent body to handle all complaints would remove bias and promote positive change in policing. Isn't that what we really all want? Thank you for your attention.

**Mr O'Toole:** Thank you, Dr Jeffs, for the tragic story you've told. I know there has to be more responsiveness from anyone in public office, public duty. You're a dentist?

**Dr Jeffs:** Yes, that's correct.

**Mr O'Toole:** You're a professional, and professions today are self-regulating bodies, right?

**Dr Jeffs:** That's correct.

**Mr O'Toole:** Our police are trying to be self-regulating. Do you think there's a conflict there? In dentistry or in police, any professional group, might there be some sort of bias?

**Dr Jeffs:** Probably true. Dentistry is a self-regulating body, but 50% of the regulating body are non-professional people appointed by government.

**Mr O'Toole:** So you're suggesting that the commission should be composed similar to any other self-regulating group, is that it?

**Dr Jeffs:** I guess my concern really was with the chief of police handling all complaints on his own. As I understand, that's where Bill 105 is going. I feel he has too much power now.

**Mr Ramsay:** I think the difference, Mr O'Toole, is we don't give dentists the power to shoot people, as we do police. That's why they're not self-regulating.

Dr Jeffs, I really appreciate your coming forward and giving your personal story. Most of us probably have a



kind of benign acceptance of how government works and maybe how policing and authority work, until we run into a situation such as yours or others where we start to see how terribly the system can fail and how all of us, being human beings, are not perfect. Because of that, we have to design the very best systems in place to put checks on the system.

I think what you're saying today is right on, that the situation you had to live through and are still living through, we haven't provided the best system yet in order to make sure there is strong civilian oversight of our police services. I hope that your presentation today maybe has moved some of the government members to consider some amendments that will be forthcoming that I think will improve this bill and rectify many of the problems you've brought forward today. Thank you.

**Mr Kormos:** Thank you kindly, sir, for taking the time to come up. Obviously you're on common ground with a large number of presenters when you call out for the need for an independent, arm's-length review, or investigative and adjudicative role in settlement of police complaints.

At the end of the day, you waited three years, or you survived three years of process. Am I correct in assuming that even after three years, nothing was resolved?

**Dr Jeffs:** The complaint is still being looked into.

**Mr Kormos:** I'm sorry. Okay, so it's still outstanding.

**Dr Jeffs:** That's right.

**Mr Kormos:** Have you raised issues? Have you asked what is going on? This is incredible.

**Dr Jeffs:** The complaints commission actually took charge of it October 1996. An official met with me in February, I think it was, and he said it would be six to eight weeks before something would be done, but it's still going on.

**Mr Kormos:** Yes, it's been six to eight weeks.

**Dr Jeffs:** Yes, I know. I've been very patient to this point. There's nothing else I can do, other than wait.

**Mr Kormos:** M Chair, Mr Wood is the PA and I know he's not going to get involved in the role of the oversight process, but I'm wondering if his office might make inquiries as to the status of this so that Dr Jeffs can be assured of as prompt a response as possible.

**Dr Jeffs:** I would appreciate that.

**Mr Bob Wood:** Perhaps you might get from my executive assistant our card and you can communicate with us directly and we'll see what we can find out for you.

**Dr Jeffs:** All right.

**Mr Bob Wood:** He's right behind you, to your left.

**The Chair:** Thank you, Mr Kormos and Dr Jeffs. The committee appreciates your taking the time to assist us here today with a very practical illustration of how the system is not working.

**Dr Jeffs:** Thank you for your time.

**The Chair:** Mr Ted Footman? No.

#### POLICE ASSOCIATION OF ONTARIO

**The Chair:** We'll proceed to the Police Association of Ontario. Welcome, gentlemen. Is there a written presentation?

**Mr John Moor:** Yes, sir.

**The Chair:** You can start and then we can get them passed out.

**Mr Moor:** Thank you, Mr Chairman. Good afternoon. My name is John Moor. I am the president of the Police Association of Ontario. I am also the administrator of the Windsor Police Association and I am a sergeant on the Windsor Police Service.

With me today on my left is John Miller. John is the chairman of the Police Association of Ontario. He's also a sergeant in the Ontario Provincial Police and he's the executive officer of the Ontario Provincial Police Association. On my far left is Bruce Miller. Bruce is a director on the PAO. He's also a director on the London Police Association and a constable with the London Police Service. On my right is Bill Baxter. Bill is a director on the Police Association of Ontario. Bill is also a sergeant with the Atikokan Township Police Force and he's the president of the Atikokan Township Police Association.

During the course of your hearings with respect to Bill 105, the Police Association of Ontario and our member associations have appeared before you to suggest changes to Bill 105. In addition, the Police Association of Ontario held a lobby day, our first annual, on April 30 of this year.

Police personnel from across Ontario met with their local MPPs at Queen's Park to discuss face to face their concerns with respect to Bill 105. We met with over 55 members of the Legislative Assembly on that day. In addition, several of our colleagues and members have met with their local MPPs in their local constituency offices.

The Police Association of Ontario has also met on several occasions with Solicitor General Robert Runciman and members of his staff. We have found the meetings to be very productive and very informative and the minister has expressed an interest in addressing our concerns.

In all these activities our goal has been a modest one, and that is to seek improvements to Bill 105 to ensure that police officers and civilian members of police forces can continue to do their jobs with courage and confidence. We want to know that our efforts are supported. That's all we're really asking for here today. Bill 105 introduces some significant and necessary changes to the way police services will be delivered in Ontario. Every community in Ontario will be required to pay for their police services and we believe this makes sense. Previous governments had also expressed the intention to correct this imbalance. We're glad to see that this will finally occur.

This will, however, be a catalyst for considerable change and activity within the province. Many communities are examining their policing options and considering alternative models for police service delivery, such as county policing, contracting police services through the OPP at the municipal or county level, or amalgamation of existing municipal police services. All we're asking for is that members of these police services be guaranteed comparable employment in the new policing structure. From a service delivery standpoint this is necessary to ensure that the level of policing in your communities is maintained without interruption. We've addressed some of the difficulties in this regard in the past.

1720

Certainly one of the areas is addressed to some degree with Bill 105. That's in regard to probationary periods for police officers. The imbalance has been recognized in Bill 105 in that municipal police officers, RCMP police officers and Ontario Provincial Police officers who are going to another municipal police service do not have to do or commit to a second probationary period. That was a consensus at the summit meetings, held in June 1996, of all the stakeholder groups. We went further at that summit. We agreed to the best of my recollection that this should also include municipal members and other police officer members going to the Ontario Provincial Police. That's not addressed in Bill 105. We've raised those concerns. We've heard continually that it's not a problem, that the probationary period has never caused any difficulty for members.

In fact, that's not the case as we're sitting here. In the OPP absorption of Fort Frances, where 16 police officers were taken on to the OPP less than a year ago, we're faced today with an officer of that Fort Frances police department who had eight years' experience with that municipal force and is now facing the loss of their job as a police officer with the OPP. The excuse or the vehicle that's being used to do that is that they're still on probation for a further 12 months. Even though that member has been a serving police officer in good standing for eight years, they're now going to face the prospect of losing their job solely based as a probationary employee.

We ask that the committee consider further amendments to Bill 105 to ensure that this doesn't happen, that our members don't face this type of humiliation and that the Public Service Act also be amended to negate any type of second probationary period for police officers going on the OPP.

Bill 105 also gives municipalities greater control of their local police services, both in control of the police budget and of the majority of appointments to police service boards. This is something AMO has been pursuing for many years. We have consistently expressed our concern with such a change, but we've accepted that this will now in fact occur and that now we must focus on making this change work.

As a balance to municipal control, Bill 105 requires that all municipalities must provide an adequate and effective level of police service in their communities. We support such a move. The scope of this provision will, however, be defined in the regulations, and we have been advised that prescribed standards are being developed to guide police services in this regard. The quality of these standards, and the degree to which the province and the commission are prepared to ensure local compliance, will determine the level and quality of police service that will be delivered in our communities in the years to come. We have confirmed our willingness to participate in the development of these standards with the ministry. We have also recommended changes to the commission's powers under the act to give them more teeth to deal with deficient police services.

Bill 105 provides for the elimination of the office of the public complaints commissioner and the board of inquiry. We support this change. Police oversight in

Ontario has cost Ontario taxpayers \$8 million a year. The budgets for these two agencies alone are almost \$4 million, \$3.8 million to be exact. This is disproportionate to the need. We have provided you with statistics in the past which demonstrate unequivocally that police services do not require the current level of police oversight. We submit that the moneys which can be saved by streamlining these functions should be reinvested in improving front-line policing through better training and better equipment.

The police complaints and discipline systems will be significantly changed by Bill 105. We will focus the balance of our presentation this afternoon on this area as it will be this part of the bill which causes us the greatest concern.

For starters, who can make a complaint and how a complaint can be made need to be addressed. The chief of police should not have the dual status of investigator-prosecutor and the complainant also. This allows for an abuse of the process. In addition, there should be a six-month time limit for making a complaint in most cases. In those rare, exceptional circumstances where a delay may be warranted, the commission should have the authority to allow a complaint that is more than six months old to proceed.

Bill 105 provides the complainant with notice at all stages of the complaints process. Unfortunately this same level of information is not provided to the officer who is the subject of the complaint. This must be corrected also to provide notice to the officer at all stages in the complaints process.

Bill 105 removes the category of bad-faith complaints. These are often complaints made in the attempt by the person charged to barter with police forces for leniency on the original charges. In some cases the complainants are initiating public complaints, civil litigation and criminal charges against an officer as part of a strategy to avoid conviction. A chief of police should have the option to take no further action on a complaint that has been made in bad faith.

Bill 105 removes the requirement for the officer and complainant to be provided with interim reports during an investigation and eliminates final reports at the conclusion of the investigation. This is worrisome for both the officer and the complainant. Interim reports provide information on the progress of the investigation, which eliminates any perception that nothing is being done. Final reports provide both parties with a copy of the case file before the chief adjudicates the matter. This permits both the officer and the complainant with the opportunity to suggest omissions or corrections and provide any additional information they feel the investigators would need before the chief makes a decision.

One other aspect this would also provide for is that it encourages the parties to consider an informal resolution of the complaint when they are confronted with the results of the investigation. The reports are a valuable tool in the administration of the complaints system and should not be abandoned as they have been in Bill 105.

Bill 105 will require a police force to consult with crown attorneys every time an officer may be the subject of an allegation involving a criminal offence. This seems



rather onerous for the police and for the crown attorney's office, as this will require the crown to be consulted every time an officer is involved in a minor traffic accident. These types of investigations are numerous and are conducted by qualified supervisors who must report their findings to their superior. The need does not exist to consult with the crown attorney in these types of cases.

Bill 105 also provides for the use of informal resolutions to deal with non-serious complaints. We support the use of informal resolutions as a cost-effective and productive method of resolving complaints. A number of procedural issues must be addressed, however, in order for this to succeed.

First the parties to an informal resolution must have the ability to make statements "without prejudice" in the attempt to resolve the matter informally. The act must provide full protection for these statements when made in the attempt to resolve it informally. An example may be an apology from an officer who maintains that they did not do anything wrong but they are prepared to apologize for the distress that's been experienced by the complainant in order to resolve the complaint. An officer will not extend such an apology if the apology may be used against the officer in a trial at a later date. No record of such a resolution should be used against an officer. Only where misconduct has been established should the record of the complaint be retained in an officer's file.

The discipline process established by Bill 105 for non-serious matters also requires reform. We are concerned that the grievance arbitration model set out in section 63 will be wrought with delay, costly to the police service and the officers and far less effective than the system that's currently in place.

Police officers hold an important office in their communities and should not be subject to undue influence or the threat of discipline for discharging their lawful duties. With the introduction of increased control of police services by municipalities, it is paramount that police officers retain their office holder status and be immune from discipline or reprisals without a proper hearing and appeals process. Police officers must be free from local political interference.

We propose that the discipline system set out under section 59 of the current act be retained for minor complaints. The maximum penalty needs to be reduced and applied as time off as opposed to forfeiture of pay. This is consistent with the established practice. A reprimand should also be available as an alternative to the imposition of a penalty.

1730

We have proposed a number of changes dealing with the hearings process and appeals. Many of these are consistent with the above submissions, so I will not repeat them. We are concerned, however, that retired police officers may be used as hearings officers to decide allegations against police officers. This will basically allow a chief of police to hire one of their colleagues to carry out the chief's wishes and eliminate any chance that the officer will have a fair hearing. We have made suggestions to the ministry on improving the hearings process, including the use of qualified senior officers from another police service.

Bill 105 eliminates an officer's right of automatic appeal to the commission following a hearing. The complainant, however, can request that an appeal be heard if the charge against the officer is dismissed. The Police Association of Ontario insists on retaining the appeal process for police officers as a means of ensuring fairness in the discipline process. Although there are few instances where appeals occur, the potential for appeal serves as a check and balance on the hearings process. Removing the right of appeal will be detrimental, we suggest, to the discipline process.

Bill 105, as you heard, also introduces a new basket clause for police discipline under "unsatisfactory work performance." We view this with considerable disdain in the absence of any consultation prior to its introduction and in view of its impact on front-line police personnel. The Police Services Act already contains provisions within the code of offences which allow officers to be disciplined for neglecting or failing to carry out their lawful duties.

By distinguishing this new section in the Police Services Act, police authorities are given sweeping powers to set unreasonable standards of performance and to discipline officers who fail to produce the intended results. We view this as nothing more than a quota clause designed to give municipalities the tools to increase local revenues through the Provincial Offences Act, ticket revenues and increased enforcement.

Already we have seen police administrators proposing to purchase additional radar sets to increase municipal income. Under this model, municipalities can set their own standards and their own targets and discipline officers who don't generate the necessary tickets. Section 75, we suggest, must be scrapped.

In closing, in recent months we have been meeting with government officials and members of the Legislative Assembly to constructively suggest improvements to Bill 105. We hope our efforts have assisted you in your deliberations and we would be pleased to address any questions or concerns. We are committed to working with the government in achieving the goal of improved policing in this province and trust that our submissions will be of value in achieving this objective. Thank you.

**The Chair:** We've run over our time. However, if there are any very short questions, they could be entertained.

**Mr Ramsay:** Thank you very much for your presentation. At this stage now, if the person to appear before us doesn't show up, you're the last presentation before our clause-by-clause, and at this time we don't know what the reaction of the government is going to be all the presentations it has heard. If the government doesn't take out section 75 in regard to unsatisfactory work performance, would it be acceptable to you if there were some sort of amendment that at least spelled out that unsatisfactory performance did not mean adhering to a type of revenue-generating quota, if we somehow got that spelled out and alleviated that fear for you?

**Mr Moor:** I don't think there could be an amendment introduced that would accomplish all that, to define what "unsatisfactory work performance" is. Since we view that

there are already sections in the code of conduct, our main concern is that once you break this section away and set it apart, it gives it much more import within the act. I don't think it would be possible or even feasible to put a harness on it, to just say it wouldn't involve ticket generation. There are many other things it could be used for in order to discipline officers and we feel it's totally inappropriate.

**The Chair:** Are there any questions by Mr Kormos or the government? If not, gentlemen, I thank you very much for your presentation here today.

Last, there was a Mr Ted Footman. Is he present in the committee room? He is not. If there are no further matters, I will then adjourn the committee hearing to clause-by-clause scheduled for May 26, 1997, at 3:30 pm.

*The committee adjourned at 1736.*











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(Hansard)**

**Monday 26 May 1997**

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**Lundi 26 mai 1997**

**Standing committee on  
administration of justice**

**Police Services  
Amendment Act, 1997**

**Comité permanent de  
l'administration de la justice**

**Loi de 1997 modifiant la loi  
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Chair: Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 26 May 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 26 mai 1997

*The committee met at 1534 in room 228.*

POLICE SERVICES AMENDMENT ACT, 1997  
LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen. This is the beginning of clause-by-clause deliberation of the justice committee's review of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety.

**Mr Peter Kormos (Welland-Thorold):** Mr Chair, I know a number of amendments have been filed by each of the three caucuses. I wonder, however, if we might defer consideration until we take the junket to New York City to see how the New York City police services commissions deal with — I know we could use teleconferencing, that's what the government recommends, but they seem to prefer actual junkets instead of telephone communications or Xerox. So perhaps the whole committee could adjourn to New York for a day or two, following the precedent set by the Ministry of the Attorney General and Mr Flaherty, Mr Wood and big Jim Brown from Scarborough. I seek unanimous consent in that regard.

**Mr Bob Wood (London South):** Denied.

**The Chair:** I'm sorry, I don't know what you're talking about, Mr Kormos.

**Mr Bob Wood:** I denied unanimous consent.

**Mr Kormos:** Because you haven't been reading the papers, Chair, and you weren't in on the junket.

**The Chair:** Thank you very much, Mr Kormos. I have heard a negative and there is not unanimous consent. We will therefore proceed.

We have today 106 amendments to the bill before us and we would start with item 1. Everyone should have received the amendments in their packages. If they have not, speak to me.

**Mr Bob Wood:** Do we not start with sections 1 and 2?

**The Chair:** Yes. If we could start again, there are no amendments to section 1. Before I put the question, is there any discussion in regard to section 1 of the amendments to the Police Services Act? If not, all those in favour of section 1? Against? Section 1 is carried.

There are no proposed amendments to section 2 of the act. Is there any discussion in regard to section 2? If not, shall section 2 carry? All those in favour? Against? Section 2 is carried.

We are now proceeding to section 3 and we have a government amendment to section 3.

**Mr Bob Wood:** I move that section 4 of the Police Services Act, as set out in section 3 of the bill, be amended by adding the following subsection:

"(6) Despite subsection (5) and sections 72, 73 and 74 of the County of Oxford Act, the councils of the county of Oxford and of all the area municipalities within the county of Oxford may agree to have subsection (1) applied to the county of Oxford and not to the area municipalities but, having made such agreement, the councils cannot thereafter revoke it."

**Mr Kormos:** No quarrel with the sense of this. What is the purpose of the denial of revocation right?

**Mr Bob Wood:** We don't think there's going to be any purpose in them going from a larger unit to a smaller unit, and therefore they can't.

**The Chair:** Is there any further discussion in regard to the amendment proposed for section 3? If not, all those in favour? All those against? The amendment is carried.

Shall section 3, as amended, carry? Carried.

We are now proceeding to item 2, which is a government amendment to paragraph 1 of section 5.

**Mr Bob Wood:** I move that paragraph 1 of section 5 of the Police Services Act, as set out in section 4 of the bill, be struck out and the following substituted:

"1. The council may establish a police force, the members of which shall be appointed by the board under clause 31(1)(a)."

I'm happy to give explanations. The purpose of this is to change the word "board" to "council." It ensures consistency with other clauses in the section which place responsibility for determining how police services are delivered with the council. It recognizes the principle that municipal council makes structural decisions, not the police services board.

**The Chair:** Any questions or discussion in regard to the amendment? If not, all those in favour? Against? The amendment is carried.

We will now proceed to Mr Kormos's motion, item 3.

**Mr Kormos:** I move that section 5 of the Police Services Act, as set out in section 4 of the bill, be amended by adding the following paragraph:

"3.1 The council may enter into an agreement under section 6.1 with the council of an adjacent municipality to have its police services provided by the board of the other municipality."

**The Chair:** Is there any discussion with regard to Mr Kormos's motion?

**Mr Kormos:** If I may, this is obviously in response to submissions that were made. It was observed at the time that in effect the OPP would have a monopoly over policing of communities that did not establish their own police services board. There was concern expressed about the absence of any rate structure or any process for determining fees for that OPP policing. This is consistent with similar provisions in Bill 84 which encourage the sharing of resources and is also consistent with, as I recall, Bill 108, which provided in the government's own version of the bill similar provision. It's one which I would think the government would support because it's consistent with their general expressed view, I suspect merely a stated view, that municipalities should have flexibility.

1540

**Mr David Ramsay (Timiskaming):** I notice that the next motion will allow municipalities to do somewhat the same if they are of a contiguous nature, so they have to share the same borders. I would want to ask the parliamentary assistant, then, why does it look like it's okay to share services if the borders are contiguous versus, say, municipalities that do not share the same borders? Why the differentiation?

**Mr Bob Wood:** We do not support this amendment because we think what's essentially a new system should start with contiguous municipalities. We'd like to see how that works. If it works well, obviously changes can be considered in the future. But we think to permit checkerboarding, at this stage at least, would be imprudent.

**The Chair:** Is there any further discussion to the proposed amendment? We have an amendment before us proposed by Mr Kormos. All those in favour? All those against? The amendment fails.

We are proceeding to a government amendment.

**Mr Bob Wood:** I move that section 5 of the Police Services Act, as set out in section 4 of the bill, be amended by adding the following paragraph:

"3.1 The council may enter into an agreement under section 6.1 with the council of another municipality to have its police services provided by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality."

**The Chair:** Is there any discussion in regard to that section, which I think follows from the prior amendment? If not, all those in favour? All those against? Carried.

Item 5 is an amendment proposed by Mr Kormos.

**Mr Kormos:** I move that paragraph 5 of section 5 of the Police Services Act, as set out in section 4 of the bill, be struck out and the following substituted:

"5 With the commission's approval, the council may provide police services by a combination of the methods described in this section or by a method not described in this section."

If I may comment briefly once again, it's consistent with the argument made on behalf of our earlier amend-

ment and one which seems in tune with this government's expressed or stated views that municipalities should have flexibility.

**Mr Bob Wood:** The question is, how much flexibility, how soon? We think it's imprudent to go to this level of flexibility at this time. We find the last part of the proposed section to be rather broad indeed.

**Mr Kormos:** It certainly is, and intended to be.

**Mr Ramsay:** We have agreement here.

**Mr Kormos:** By God, that's called flexibility, Mr Wood. I'd like to know how the New York City police commission would handle a similar issue.

**Mr Jim Flaherty (Durham Centre):** You missed it; too late. You shouldn't have taken the week off.

**Mr Bob Wood:** Go down and ask them.

**The Chair:** Is there any further discussion in regard to the proposed amendment? If not, shall the amendment carry? All those in favour? All those against? The amendment fails.

Mr Kormos, item 6.

**Mr Kormos:** This doesn't involve a junket to New York City when mere telephone conferencing would have sufficed, I'm sure.

I move that section 5 of the Police Services Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Employee rights

"(2) If a municipality provides police services in a manner which results in the termination of any person's employment, the municipality that will be providing the police services or the Ontario Provincial Police, if it will be providing the police services, must offer comparable employment to that person."

Briefly, once again this is in response to comments the committee heard, which was concern about the displacement of police officers by virtue of some of the restructuring that's going to flow from this or obviously by the displacement of civilian staff.

I think there's non-police staff and it's important that those persons be protected in the process of this restructuring. Certainly this does it in a way that's not at all unfair to the new employer.

**Mr Bob Wood:** We do not favour this amendment. The practice in the past has been, when the OPP has taken over a municipal force, that all the officers have been employed, and we would anticipate that, by and large, that's going to continue. On the other hand, we think a reasonable degree of flexibility is required.

**Mr Kormos:** The flexibility issue rears its ugly head again, and the whole flexibility concept is increasingly flexible as we progress through this.

If Mr Wood's position is that he relies upon the past practice of the OPP, it seems to me highly desirable that it be put into the statute. That way we can be ensured that it's going to happen and those people who are suffering this restructuring can be confident that they won't find themselves in the unemployment line.

**The Chair:** If there is no further discussion, shall Mr Kormos's amendment carry? The amendment fails.

We have now reached the end of the amendments to section 4. Any discussion in regard to section 4, as



amended? No. Shall section 4, as amended, carry? Against? Section 4 is carried.

We are now proceeding to section 5. There are no amendments to section 5. If there is no discussion, shall section 5 carry? It is carried.

Shall section 6 carry? All those in favour? All those against? Section 6 carries.

We are now dealing with a new section, 6.1. This is item 7.

**Mr Kormos:** I move that the bill be amended by adding the following section:

“The act is amended by adding the following section:

“Municipal agreements for providing police services

“6.1 The councils of two adjacent municipalities may enter into an agreement for the provision of police services for one municipality by the board of the other municipality on the conditions set out in the agreement.”

Once again this is in response to submissions made to the committee, issues raised on the part of municipalities that would want to club resources or share resources. Notwithstanding the very complex and restrictive amendment proposed by the government, it seems to me that section 6.1, as contained in this motion, provides for fairness and flexibility for municipalities to engage in some modest aspect of self-determination.

**Mr Bob Wood:** The government does not favour this amendment. This flows logically from the earlier amendment. We do not think checkerboarding at this time is a prudent step to take.

**The Chair:** Is there any further discussion with regard to the proposed amendment? If not, all those in favour? All those against? The amendment fails.

Next, item 8.

1550

**Mr Bob Wood:** I move that the bill be amended by adding the following section:

“6.1 The act is amended by adding the following section:

“Municipal agreements for providing police services

“6.1(1) The councils of two municipalities may enter into an agreement for the provision of police services for one municipality by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.

“Advisors to board

“(2) The council of a municipality that receives police services pursuant to an agreement made under subsection (1) may select a person to advise the other municipality's board with respect to objectives and priorities for police services in the municipality that receives the police services.

“Term of office

“(3) The term of office for a person selected to advise another municipality's board shall be as set by the council when the person is selected, but shall not exceed the term of office of the council that selected him or her.

“Same and reappointment

“(4) A person selected to advise another municipality's board may continue to sit after the expiry of the

term of office of the council that selected him or her until the selection of his or her successor and is eligible for reappointment.

“Protection from liability

“(5) No action or other proceeding for damages shall be instituted against a person selected to advise another municipality's board for any act done in good faith in the execution or intended execution of a duty or for any alleged neglect or default in the execution in good faith of a duty.”

Perhaps I can give a brief explanation of this. This is a consequential amendment to 3.1 under section 5. It permits one council to contract with the council in an adjacent municipality for the delivery of police services. It allows permissive authority for the council of the municipality receiving the service to have an adviser to the police services board of the municipality providing the service. The adviser would provide information on the needs and priorities of the municipality to the police services board. It sets out the term of office and so on. That, basically, is the purpose of this amendment.

**The Chair:** Is there any further discussion with regard to the proposed amendment? If not, all those in favour of the amendment? Against? The amendment is carried.

We are now proceeding to an amendment to section 7, being item 10.

**Mr Bob Wood:** I move that section 7 of the Police Services Act, as set out in section 7 of the bill, be amended by adding the following subsection:

“Municipal agreements with OPP

“(3) The board of a municipality may agree with the commissioner or with the local detachment commander of the Ontario Provincial Police that the Ontario Provincial Police will provide some police services to the municipality on the conditions set out in the agreement, and subsections 10(7) and (8) apply to the agreement.”

**The Chair:** Any questions with regard to the proposed amendment? If not, shall the amendment carry? Carried.

Is there any discussion with regard to section 7, as amended? If not, all those in favour of section 7, as amended? Against? Section 7 is carried.

There are no proposed amendments to sections 8 to 13, inclusive. Is there any discussion with regard to those sections? If not, shall sections 8 to 13, inclusive, carry? Sections 8 to 3 are carried.

We are now dealing with Mr Kormos's amendment to section 14, being item 11.

**Mr Kormos:** I move that subsection 21(7) of the Police Services Act, as set out in section 14 of the bill, be amended by striking out “the Solicitor General” and substituting “the Attorney General.”

Once again, this is in response to concerns raised about the need for some arm's-length. The amendment indicates that it's more appropriate that it be the Attorney General conducting that supervision rather than the Solicitor General.

**Mr Bob Wood:** We are not in favour of this amendment. We think it's a matter of police discipline and it should be done by the Solicitor General.

**The Chair:** If there's no further discussion, shall —

**Mr Kormos:** A recorded vote, please.

**The Chair:** A recorded vote is requested. Shall Mr Kormos's amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion to amend section 14 fails.

I will now put the question, shall section 14 carry? All those in favour? Against? Section 14 is carried.

We are now proceeding to an amendment of Mr Kormos's to section 15, being item 12.

**Mr Kormos:** I move that clause 22(1)(e) of the Police Services Act, as set out in subsection 15(2) of the bill, be struck out and the following substituted:

"(e) conducting inquiries, investigations and hearings, on its own motion, at any stage before, during or at the conclusion of a review, investigation or hearing in respect of a complaint or complaints made about the policies of or services provided by a police force or about the conduct of a police officer."

This is distinguished from the existing section by virtue of deleting the reference to the chief of police and board.

**Mr Bob Wood:** We do not favour this amendment. In essence, what we have is a complainant-driven system, and we think this is unnecessary.

**The Chair:** We have a proposed amendment to section 15(2). If there is no further discussion —

**Mr Kormos:** A recorded vote, please.

**The Chair:** Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion fails. We are proceeding to item 13.

**Mr Bob Wood:** I move that clause 22(1)(e) of the Police Services Act, as set out in subsection 15(2) of the bill, be amended by striking out "frivolous, vexatious or unsubstantiated" in the sixth and seventh lines and substituting "frivolous or vexatious, made in bad faith or unsubstantiated, that the complaint will not be dealt with because it was made more than six months after the facts on which it is based occurred."

This amendment gives power to the Ontario Civilian Commission on Police Services to review the decision on the request of the complainant by the chief etc not to deal with a complaint more than six months old or a complaint made in bad faith. That strengthens the civilian review component of the system. The above subsections allow the chief, detachment commander etc not to deal with a complaint more than six months old and not to deal with one that's made in bad faith.

1600

**Mr Kormos:** Is there a concurrent amendment to section 71? I'm looking for the limitation period in

section 71. If you'll bear with me for a second, I'm looking for the six-month limitation period referred to in the amendment in section 71. I'm finding "frivolous, vexatious" etc. Could you just help me with that? Where am I going to find the —

**The Chair:** Item 96, Mr Kormos.

**Mr Kormos:** No. That's the amendment. I'm looking for the section that creates the six-month limitation period.

**Mr Bob Wood:** You're asking what's in the existing legislation?

**Mr Kormos:** Yes.

**Mr Bob Wood:** Subsection 77(7) of the Police Services Act.

**Mr Kormos:** Okay. That's the status quo in the current act, as I understand it, the six-month limitation period. Thank you.

**The Chair:** Is there any further discussion? If not, we have a proposed government amendment to subsection 15(2). Shall the amendment carry? All those in favour? All those against? The motion is carried.

We're proceeding to item 14.

**Mr Kormos:** I move that clause 22(1)(e.1) of the Police Services Act, as set out in subsection 15(2) of the bill, be amended by striking out "that the complainant was not directly affected by the policy, service or conduct that is the subject of the complaint" in the seventh, eighth, ninth and 10th lines.

This again was a matter of some great concern because it relates to the ability of third parties to make complaints. I found it very difficult to understand the position of the government in not being responsive to this plea for third-party complaints. It has nothing to do with whether somebody can act as an agent or act on behalf of an aggrieved person. It has to do with wanting, I would think, the public in general to be concerned about misconduct they might witness and encouraging them to initiate the process if they witness what they believe to be inappropriate conduct. It seems to me that would serve everybody's interest.

It would also deal with the sad reality that there are any number of people in our community, probably increasingly so, who are so marginalized, for any number of reasons, that they would not find it particularly easy or would not find themselves readily capable of initiating this type of complaint. This is an issue we feel very strongly about, and I suspect that others who sat through the committee process do as well.

**Mr Ramsay:** I agree with my colleague. I think this is a very important point to be made. I'm sorry that this is not going to be accepted by the government, as they have removed from the present act the ability of third parties to make a complaint. I think this should be reinstated, for all the reasons the previous speaker stated. Everyone in society has to be assured that our police are operating to the utmost of their ability to uphold the law and that any citizen has the right to bring forward a complaint against the police from time to time.

This is not to pick on the police, but we have to emphasize that we confer to our police officers extraordinary powers that the average citizen does not have, and in order for the justice system to work, there's got to be



complete confidence by everyone in society that every citizen can be a watchdog. That's important. I also think it's important that if we have citizens who, for whatever reason, don't have the ability or the confidence to bring forward complaints, they should be able to be represented or others should be able to initiate a complaint if they perceive that some wrongdoing has occurred. It's important that the committee consider this amendment.

**Mr Bob Wood:** We are against this amendment. We see the best system as being a complainant-driven system, which is exactly the same way our civil justice system works.

**Mr Kormos:** Neither of the opposition parties are suggesting that it shouldn't be a complainant-driven system. All we're saying is that a complainant should be somebody who witnesses improper conduct but who may not be the direct victim of that improper conduct. It's in the public interest that members of the public in fact recognize a responsibility to report and initiate the process when they witness inappropriate conduct.

I heard what Mr Wood said, but I find the reference to the civil justice system entirely inappropriate. Nobody's seeking damages or compensation when they initiate a complaint in this process. I'm not denying the existence of bad-faith complaints, but that's why there are provisions in the existing act and in the amendments to deal with frivolous, vexatious etc complaints. My God, if I witness improper conduct, I certainly want — and I think I speak for the vast majority of Ontarians — to be able to see something done about it, and I think members of the public are prepared to take it upon themselves. I find the reference to the civil process entirely weird, because nobody's seeking damages or compensation here; they're seeking something that — the civil justice system might be better oriented towards their seeking some justice and some correction of behaviour.

**Mr Ramsay:** I think it's rather inappropriate, in this case, for the parliamentary assistant to compare the civil and the criminal system of justice. It is very different for me to bring a complaint that I think neighbour A's fence is encroaching on neighbour B's property than it is for me to feel that police officers arrived at a neighbour's home and acted inappropriately, and those neighbours, for whatever reason, felt they could not bring forward a complaint about that behaviour. It's a very different matter and a matter potentially far more serious. I think this right of third-party complaints needs to be reinstated in this act.

**The Chair:** Mr Wood?

**Mr Bob Wood:** I have nothing to add.

**The Chair:** Is there any further discussion in regard to Mr Kormos's proposed amendment? A recorded vote is requested. Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment fails. We are proceeding to item 15.

**Mr Bob Wood:** I move that section 15 of the bill be amended by adding the following subsection:

"(2.1) Clause 22(1)(f) of the act is amended by inserting "and complainants" after "forces" in the second line.

The proposed amendment clarifies the power given to OCCPS in section 69 of the bill to hear appeals from complainants as well as police officers.

**The Chair:** Is there any discussion in regard to this amendment? Shall the amendment carry? All those in favour? Against? The amendment is carried.

Item 16.

1610

**Mr Bob Wood:** I move that subsection 15(3) of the bill be struck out and the following substituted:

"(3) Subsections 22(2) and (3) of the act are repealed and the following substituted:

"Powers of commission in investigations and inquiries

"(2) When the commission conducts an investigation or inquiry, it has all the powers of a commission under part II of the Public Inquiries Act, which part applies to the investigation or inquiry as if it were an inquiry under that act.

"Statutory Powers Procedure Act applicable to hearings

"(3) The Statutory Powers Procedure Act does not apply to the commission, except to a hearing conducted by the commission under subsection 23(1), 25(4), (4.1) or (5), 39(4), 47(5), 64(9), 69(2), (2.1) or (3) or 116(1)."

This is a technical amendment which I'll explain if desired.

**The Chair:** Are there any questions in regard to this amendment? If not, shall it carry? The amendment is carried.

If there's no discussion in regard to section 15, as amended, I'll put the question. Shall section 15, as amended, carry? Section 15, as amended, is carried.

We are proceeding to item 17, a proposed amendment to section 16.

**Mr Kormos:** I move that section 16 of the bill be amended by adding the following subsection:

"(0.1) Subsection 25(1) of the act is amended by inserting "at an association's request" after "request" in the third line."

This, again, obviously broadens the scope to permit an association to make the request as well as a board, and I believe it's one that would receive broad support.

**Mr Bob Wood:** I'm sorry to disappoint Mr Kormos. We think this sort of review is properly initiated by the Solicitor General, the municipality or the commission themselves. We feel that gives adequate review in the matter.

**Mr Kormos:** If I may, Chair, I hear the parliamentary assistant. I don't know where this lack of confidence in the associations across the province, or the provincial one, comes from.

**The Chair:** Is there any further discussion in regard to the proposed amendment? A recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment fails. We are proceeding to item 18.

**Mr Bob Wood:** I move that subsection 16(2) of the bill be struck out and the following substituted:

“(2) Clause 25(1)(a) of the act is repealed and the following substituted:

“(a) the conduct or the performance of duties of a police officer, a municipal chief of police, an auxiliary member of a police force, a special constable, a municipal law enforcement officer or a member of a board.”

The amendment removes the term “municipal” in the case of police officers and auxiliary members of a police force to clarify that the OCCPS’s powers of investigation, inquiry and reporting on conduct include the OPP officers, special constables and auxiliary members.

**The Chair:** Any questions or discussion in regard to the proposed amendment? If not, shall it carry? The amendment is carried.

We move on to item 19.

**Mr Kormos:** I move that section 16 of the bill be amended by adding the following subsection:

“(3) subsection 25(3) of the act is amended by inserting ‘or association’ after ‘council’ in the fourth line.”

Once again, as with my comments in our previous amendment, this permits some participation in the process by associations across the province and it would seem to me to be also commonsensical.

**Mr Bob Wood:** Mr Chairman, we’re against this motion. This follows of course logically from the earlier motion, which was defeated, and for the same reasons we’re against this motion.

**The Chair:** Is there any further discussion? If not, shall the amendment carry? A recorded vote.

#### Ayes

Kormos, Ramsay.

#### Nays

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment fails.

We are proceeding to item 20, and you should have a 20-R in your binder, a replacement motion.

**Mr Bob Wood:** I move that section 16 of the bill be amended by adding the following subsection:

“(3) Subsection 25(4) of the act is repealed and the following substituted:

“Actions taken, police officer, municipal chief of police

“(4) If the commission concludes, after a hearing, that the conduct of a police officer or municipal chief of police is proved on clear and convincing evidence to be misconduct or unsatisfactory work performance, it may direct that any action described in section 67, as specified by the commission, be taken with respect to the police officer or municipal chief of police or it may direct that the police officer or municipal chief of police be retired if he or she is entitled to retire.

“Actions taken, auxiliary member, special constable, municipal law enforcement officer

“(4.1) If the commission concludes, after a hearing, that an auxiliary member of a police force, a special

constable or a municipal law enforcement officer is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that,

“(a) the person be demoted as the commission specifies, permanently or for a specified period;

“(b) the person be dismissed;

“(c) the person be retired, if the person is entitled to retire; or

“(d) the person’s appointment be suspended or revoked.”

**The Chair:** Are there any questions in regard to the proposed amendment? If not, shall the amendment carry? The amendment is carried.

We are now dealing with section 16, as amended. Is there any discussion in regard to that section? If not, I’ll put the question. Shall section 16, as amended, carry? Section 16 is carried.

There are no amendments to section 17. If there’s no discussion in regard to section 17, I’ll put the question. Shall section 17 carry? All those in favour? Section 17 is carried.

We are now proceeding to item 21.

**Mr Kormos:** I move that section 18 of the bill be amended by adding the following subsection:

“(0.1) Section 27 of the act is amended by adding the following subsection:

“Membership to reflect the community

“(3.1) The municipal council and Lieutenant Governor in Council shall ensure, in making appointments to a board, that the membership of the board reflects the diversity of the community it serves.”

Again, I appreciate that the language here is purposely vague. Mr Wood may raise, “How can you enforce such a thing?” but not all statutory dicta have remedies or consequences. This is a directive rather than a prohibitive section of the bill and I think it’s incredibly important. It’s important, I believe, in areas of the province where minority communities are prevalent. It addresses the need, for instance, to reflect in many areas of the province where there are significant communities of aboriginal peoples, that they be represented on their boards. I appreciate we’re not talking about aboriginal policing here, but we’re talking about the mainstream community and the fact that these people should be recognized linguistically, certainly gender.

We’ve witnessed over the course of the last just shy of two years some real tinkering with police services boards by this government, what has appeared to have been a very strong bias against women serving on those police services boards, even to the extent where people like Marion Dewar were fired. Mind you — Mr Wood talks about civil action — the government got its butt sued and kicked a few times for the highly illegal way in which these people were tossed off boards.

It’s important that this government and subsequent governments, the one that’s going to be elected in 1998-99, have some direction, and this does that. It also reflects and acknowledges that municipalities now have an appointment power which requires them to appoint the majority of members of a board. I think it’s important both from the governmental point of view and in terms of



their appointments through the Lieutenant Governor in Council, and from the municipal point of view.

There is some concern expressed when you have a majority of municipal appointments, about, let's say, an increased capacity for a police services board to perhaps suffer some erosion of its integrity. This, I believe, by setting some guideline — because I'm not aware of any other guideline; perhaps minimum age and so on — but there's no direction for municipalities in terms of who and what should be on a police services board. I think this is an important amendment.

1620

**Mr Bob Wood:** The government does not favour this amendment because we think it's unnecessary. We are satisfied that this government or any government will attempt to appoint people who will work to provide the kind of police services that each community wants.

**The Chair:** Is there any further discussion? If not, I'll put the amendment. A recorded vote is requested. Shall Mr Kormos's amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost. Item 22, Mr Kormos.

**Mr Kormos:** We're referring to boards for smaller communities. I move that clause 27(4)(c) of the Police Services Act, as set out in subsection 18(1) of the bill, be struck out and the following substituted:

"(c) three persons appointed by the Lieutenant Governor in Council."

Once again very briefly, the current amendment provides only for one. This provides for a significant enough police services board, in terms of numbers, that decision-making can be properly carried on. Clearly you've got three-person boards in smaller municipalities, less than 25,000. That probably is the biggest chunk of municipalities in the province. While, again, not pointing the finger at any group of three people, it seems to me that we do have problems with absences from time to time. We might have problems in resignations or removals from the board. You're creating a scenario, by virtue of three-person boards, where a board could become incapable of making decisions if one or another incident occurs.

It is for that reason that we are proposing that there be three persons appointed by the Lieutenant Governor to create a five-person board rather than a mere three-person board. You're going to run into real problems with this. As I say, in the event that a person is sick, in the event that someone doesn't attend a meeting, it is going to really interfere with decision-making in a serious way. Those three persons, creating a five-person board, go a long way to making police services in those small communities operate effectively.

**Mr Bob Wood:** We're against this amendment. We feel that the numbers are adequate. There would simply be extra expense, for no benefit, to increase the numbers.

We also have confidence the municipalities will appoint the kind of people who are appropriate to the boards.

**The Chair:** Is there any further discussion in regard to Mr Kormos's amendment? If not, a recorded vote is requested.

**Ayes**

Kormos.

**Nays**

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment fails. Item 23, Mr Kormos.

**Mr Kormos:** I move that clause 27(5)(d) of the Police Services Act, as set out in subsection 18(1) of the bill, be struck out and the following substituted:

"(d) four persons appointed by the Lieutenant Governor in Council."

Once again, the same argument: We're talking about communities in excess of 25,000 people and requiring four persons rather than two.

**Mr Bob Wood:** We're against this for the reasons given on the last motion.

**The Chair:** I'm just wondering if it's not out of order. Doesn't it change the balance? If your prior one lost, does this one follow?

**Mr Kormos:** It addresses boards of municipalities in excess of 25,000. You'll note that there is one more, to address the number of members of a board in a regional municipality. If it were simply a case of making some sort of amendment that contradicted or refuted the government's position that there should be a majority of municipal appointments — because this clearly makes a majority of provincial appointments, maintains the status quo in that regard — you'd be right. But under these circumstances, I don't think so.

**The Chair:** We'll vote on it. Is there any further discussion?

**Mr Kormos:** Recorded, please.

**The Chair:** A recorded vote is requested.

**Ayes**

Kormos.

**Nays**

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** It is lost. Item 24.

**Mr Kormos:** I move that clause 27(8)(d) of the Police Services Act, as set out in subsection 18(1) of the bill, be struck out and the following substituted:

"(d) four persons appointed by the Lieutenant Governor in Council."

Once again, as indicated earlier, this provides for a majority of provincial appointments and is applicable to the part of the bill that would structure or create the size for police services boards of regional municipalities.

**Mr Bob Wood:** We're against this for the reasons given on the preceding two motions.

**The Chair:** If there's no further discussion, shall the amendment carry? A recorded vote is requested.

#### Ayes

Kormos.

#### Nays

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** Item 25, Mr Wood.

**Mr Bob Wood:** I move that subsection 27(9) of the Police Services Act, as set out in subsection 18(1) of the bill, be amended,

(a) by striking out "district, regional or metropolitan" in the first and second lines; and

(b) by striking out "district, regional or metropolitan" in the third and fourth lines of clause (c).

Explanation is not desired.

**The Chair:** No? Shall the amendment carry? The amendment is carried. Item 26, Mr Kormos.

**Mr Kormos:** I move that clause 27(9)(d) of the Police Services Act, as set out in subsection 18(1) of the bill, be struck out and the following substituted:

"(d) five persons appointed by the Lieutenant Governor in Council."

Again, the rationale is consistent with the previous amendments to that same effect.

**Mr Bob Wood:** We're opposed for the reasons given on the previous three NDP motions.

**The Chair:** Is there any further discussion? If not, shall the amendment carry?

**Mr Kormos:** Recorded vote, please.

**The Chair:** A recorded vote is requested.

#### Ayes

Kormos.

#### Nays

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment fails. Item 27, Mr Wood.

**Mr Bob Wood:** I move that subsection 27(13) of the Police Services Act, as set out in subsection 18(3) of the bill, be struck out and the following substituted:

"Persons who are ineligible to be members of a board

"(13) A judge, a justice of the peace, a police officer and a person who practises criminal law as a defence counsel may not be a member of a board."

This deletes the prescribed classes of person from the list of excluded persons who cannot be a member of the police services board.

**Mr Kormos:** No quarrel with the amendment. In fact, we're supportive of the deletion of that prescribed class of persons that caused some concern by participants. I should have perhaps asked this during the course of the hearings, and I appreciate a person who practises criminal law as a defence counsel, but what about those bottom-feeders who don't normally practise criminal law but from time to time take on crown attorney work to prosecute people, the rent-a-crowns? Surely if a person

who practises criminal defence work is excluded, the real estate lawyer who picks up a few extra bucks filling in for a crown attorney system that's understaffed and underbudgeted shouldn't be eligible either. Does Mr Wood agree with that proposition?

**Mr Bob Wood:** As a former defence counsel, I'd have a conflict of interest in answering that. To give you a more serious answer, we're going to see how it works with the exclusion of defense counsel, and in due course, if it appears there's a problem in the area that you've identified, obviously we'll have to look at it.

**Mr Ramsay:** Just add in "bottom-feeders."

**The Chair:** Thank you for your contribution, Mr Ramsay. Is there any further discussion in regard to the amendment of Mr Wood? If not, all those in favour? Against? The amendment is carried.

We will now deal with section 18, as amended. Is there any discussion? If not, shall section 18 as amended carry? It is carried.

We are now moving to section 19. There are no proposed amendments to section 19. Is there any discussion in regard to section 19? If not, shall section 19 carry? All those in favour? Carried.

We are now proceeding to item 28.

#### 1630

**Mr Bob Wood:** I move that clause 31(1)(i) of the Police Services Act, as set out in subsection 20(3) of the bill, be struck out and the following substituted:

"(i) establish guidelines for dealing with complaints made under part V."

That acts as a technical amendment.

**The Chair:** Is there any discussion? If not, shall the proposed amendment carry? All those in favour? The amendment is carried.

We are now dealing with section 20, as amended. If there's no discussion, shall it carry? Section 20 is carried.

We're now dealing with an amendment to section 21, item 29.

**Mr Kormos:** I move that clause 33(4)(c) of the Police Services Act, as set out in section 21 of the bill, be struck out and the following substituted:

"(c) three persons appointed by the Lieutenant Governor in Council."

Once again, this is consistent with previous motions made which counter the government's move to have the majority of persons on police services boards be municipal appointees.

**Mr Bob Wood:** We are against this for the reasons outlined earlier.

**The Chair:** Is there any discussion?

**Mr Kormos:** Recorded.

**The Chair:** A recorded vote is requested.

#### Ayes

Kormos.

#### Nays

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost. Item 30.



**Mr Kormos:** I move that clause 33(5)(c) of the Police Services Act, as set out in section 21 of the bill, be struck out and the following substituted:

"(c) four persons appointed by the Lieutenant Governor in Council."

Again, this is consistent with the previous amendments that have been moved, acknowledging that were the government not including police services boards in with the downloading and the increased costs and the utilization of police as revenue collectors as compared to law enforcers, there might be less concern about the majority of appointees being municipal. But in the context of the downloading and police being called upon to generate revenues rather than enforce the law and the pressure that's going to place on municipal councils and their appointees, we've moved these amendments to maintain the current structure of a majority of Lieutenant Governor appointments.

**The Chair:** Mr Wood?

**Mr Kormos:** The government's opposed.

**Mr Bob Wood:** By golly, we are, for the reasons outlined earlier.

**The Chair:** Any further discussion? If not, shall the amendment carry?

**Mr Kormos:** Recorded.

**The Chair:** A recorded vote.

#### Ayes

Kormos.

#### Nays

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion is lost.

Item 31.

**Mr Kormos:** I move that clause 33(7)(c) of the Police Services Act, as set out in section 21 of the bill, be struck out and the following substituted:

"(c) five persons appointed by the Lieutenant Governor in council."

Consistent with the previous amendments. The government's opposed.

**Mr Bob Wood:** For the reasons outlined earlier.

**The Chair:** Shall the amendment carry?

**Mr Kormos:** Recorded, please.

**The Chair:** A recorded vote.

#### Ayes

Kormos.

#### Nays

Boushy, Flaherty, Ramsay, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion is lost.

That brings us to section 21. Shall section 21 carry? All those in favour? Section 21 is carried.

There are no amendments for sections 22, 23 or 24. Are there any discussions in regard to any of those three sections? If not, shall sections 22, 23 and 24 carry? All those in favour? They are carried.

We are proceeding to item 32.

**Mr Kormos:** I move that section 25 of the bill be struck out and the following substituted:

"25. Subsection 39(4) of the act is struck out and the following substituted:

"Commission to hold hearing

"(4) The commission shall hold a hearing to determine the budget of a board at the council's request, if the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate.

"Commission may hold hearing

"(5) The commission may hold a hearing to determine the budget of a board on its own initiative or at the request of the chief of police or an association.

"Commission's decision binding

"(6) After holding a hearing under subsection (4) or (5), the commission's determination of the board's budget is final and binding on the municipal council or councils."

This clearly is in response to the concern expressed by any number of police officers and their associations which expressed fear about depolicing and defunding the police, particularly in view of the tremendous downloading that's taking place by this government on to municipalities across Ontario and the increased utilization of police. They've expressed this fear directly to the committee of being used as revenue generators. Indeed, down in regional Niagara, the Niagara Region Police Association has been trying to stand its ground on the contemplation of commercial advertising on police cars as a means of the police services board raising revenues. The Toronto Sun, in a typical, bold Sun Donato cartoon, dramatized the issue with I believe a Tim Horton doughnut ad on a police cruiser.

Police officers, and rightly so in the case of Niagara, Mike Pratt, the police association president, have pointed out that it's imperative that policing not only be but be seen to be entirely independent of external pressures, including commercial pressures. I think it's imperative that an association be entitled to raise its concerns about adequacy or inadequacy of a police budget and to have that matter referred to the commission. These are the people by and large out there doing the dangerous work, doing the dirty work. They're in the best possible position to determine adequacy of a budget, especially when the budgets are primarily labour costs: the cost of putting women and men in uniforms and out on duty.

**Mr Ramsay:** I think this is an important amendment and it really strikes at the question of how important to the province is municipal policing. We've gone through a series of amendments that didn't make it and that I didn't support, but in this bill the government's trying to give more responsibility to municipalities to carry out their policing. I think that's fine, but this is a matter of balance. While we give municipalities more responsibility, it must always be in the provincial interest that fair and adequate policing be delivered to citizens in municipalities, and it's important to have an important watchdog facility there and available to act as a check. So while on the one hand we give more responsibility to municipalities, I think it's very important that they know the

province is very interested in municipal policing and has a mechanism that will hold their deliberations to a provincial test. I think the commission acts as that and it would be fair for individuals and associations to bring forward such a complaint.

**Mr Bob Wood:** We don't favour this amendment, basically because we think the scheme of the act, as we've proposed it, will effectively give the oversight needed. It's important to bear in mind where the municipal councils get their mandate from, and that's from their voters. I think that, coupled with the provincial oversight, will give us the kind of policing we need.

**The Chair:** Is there any further discussion in regard to the proposed amendment of Mr Kormos? If not, a recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 33.

**Mr Bob Wood:** I move that subsection 39(3) of the Police Services Act, as set out in section 25 of the bill, be struck out and the following substituted:

"Budget

"(3) Upon reviewing the estimates, the council shall establish an overall budget for the board for the purposes described in clauses (1)(a) and (b) and, in doing so, the council is not bound to adopt the estimates submitted by the board.

"Same

"(3.1) In establishing an overall budget for the board, the council does not have the authority to approve or disapprove specific items in the estimates."

Basically that clarifies that the municipal council approves the total budget envelope and not the individual line items, and it recognizes that the police services board is responsible for allocating funds and administering the total budget.

**Mr Kormos:** Just very briefly, please. Can the PA help in terms of distinguishing the language "the council is not bound to adopt the estimates"? Is there anything in the amendment that changes what was intended by the original act, that is to say, is the amendment only enhanced clarification or is it an alteration?

**Mr Bob Wood:** I would regard it as a clarification.

**Mr Kormos:** Not intended to alter the original intent of the amendment?

**Mr Bob Wood:** Not as I see it.

**Mr Kormos:** But simply spell it out in black and white, or red and blue?

**Mr Bob Wood:** That's my view.

**Mr Ramsay:** I agree with the intent of what you've added here, that the council doesn't zero in on a one-line item and say, "Get rid of this." What happens here is that the council, if they do not want to approve the board's budget, send it back to the board and say, "That's not good enough," because obviously they can't make the change, as you've just said in (3.1). So the board makes the cut and then brings it back, is that the —

**Mr Bob Wood:** The council's ultimate responsibility is to come up with a dollar number. That's all they can do. That's the bottom line of the scheme.

**Mr Ramsay:** The board just has to fit in their budget —

**Mr Bob Wood:** The council cannot say to them, "Here's how you've got to divide up that dollar number."

**The Chair:** Is there any further discussion? If not, shall the amendment carry?

**Mr Kormos:** Chair, can I request a five-minute recess as of right now in view of your calling the vote?

**The Chair:** Sure. We will be back at 10 to 5.

*The committee recessed from 1643 to 1653.*

**The Chair:** I call the meeting back to order. We had not voted on item 33. Is there any further discussion in regard to the government amendment? All those in favour? Against? It's carried.

We are now dealing with section 25, as amended. Is there any discussion in regard to that section? Shall section 25, as amended, carry? It is carried.

We are now dealing with sections 26 to 33, inclusive. There are no amendments proposed by any of the parties in regard to those sections. Is there any discussion? If not, I'll call the question. Shall sections 26 to 33, inclusive, carry? They are carried.

Item 34: Mr Kormos.

**Mr Kormos:** I move that subsection 56(1) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Making a complaint

"56(1) Any member of the public may make a complaint under this part about the policies of or services provided by a police force, including systemic practices of a police force, or about the conduct of a police officer."

Obviously the amendment brings into the arena of complaint the systemic practices of a police force. This again could deal with any number of issues. Some of them are apparent and can be readily anticipated. It's imperative that these sorts of things be the subject matter of review as well. Obviously here we're not talking about a complaint against a single police officer or a chief of police or even a police services board, but the need for there to be some means of investigating and making determinations about systemic practices which may result in either inadequate or less-than-desirable police services or an injustice to some or all of a given community.

**Mr Bob Wood:** We're against this motion basically for the reasons set out earlier. With respect to general practices, we don't see those as being most effectively dealt with on the basis of an individual complaint.

**Mr Ramsay:** I guess it's not here because it's not really a motion, but I brought forward that this whole part V under "Complaints" should be voted out completely and leave the act the way it presently sits. I am very concerned about the changes this government is making to the complaints process and the public perception of those changes. I think what the government is doing is a big mistake. It is going to erode the confidence citizens have in the police and in the civilian oversight process in this province.



I know the government wants to save money, and I know the process we have in place is costly, there's no doubt about it and I wouldn't argue that point. But it's like the way our Legislature runs: It's maybe not the most efficient place in the world but it kind of works.

When you're dealing with arms of government that are authorized to from time to time exert force, it's very important that the public has a secure feeling that we have, first of all, the very best police officers in the world — which I believe we have — and that when something goes wrong and a mistake is made, we have the very best system in the world whereby a citizen can find redress. That's very important.

This whole change here takes away the perception and the reality that there's an independence of the process. I think we're going to have trouble down the road with this. I just want to put that on the record.

**The Chair:** Is there any further discussion in regard to Mr Kormos's proposed amendment?

**Mr Kormos:** Recorded vote, please.

**The Chair:** If not, we'll have a recorded vote.

#### Ayes

Kormos, Ramsay.

#### Nays

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 35: Mr Ramsay.

**Mr Ramsay:** I move that subsection 56(2) of the Police Services Act, as set out in section 34 of the bill, be struck out.

This section allows the chief to make a complaint about the conduct of a police officer. I think the great fear of the police associations here is that, rather than what civilian oversight of police officers in the old part of the bill was meant to do, and that was to give a process to the public in order to bring complaints forward, this here, it seems to me, shouldn't even be part of this bill. This is basically an internal police discipline matter and shouldn't be dealt with in this section of the bill at all.

The fear that police associations have with this is that these new powers conferred on a police chief now will be used to basically drive a different type of policing in municipal police forces across this province. By that I mean it will drive it away from community-based policing, where the officer has discretion in a community in dealing with matters. Now, with all the downloading pressures that are coming, we can have chiefs of police, who are going to be under extreme pressure from their municipal councils to produce revenues, basically policing the police to make sure that revenues are being brought in.

To have this section in here is really going to mean that a chief of police can start to exert pressure on a police force other than to uphold the law. Right now that's the great fear of police associations, but I think it's going to meet with tremendous disdain from the general public once they start to see this policy enacted. That's why I moved this today.

**Mr Kormos:** It's interesting that subsection 56(2) is there when subsection 57(1) denies every other person, other than a chief of police who isn't directly affected, the right to make a complaint. Were one or the other not there, I don't suppose I could make this proposition or this argument, but it certainly strengthens the argument that Mr Ramsay made, to say that anybody else who isn't directly affected cannot make a complaint, that the chief of police, then, is singled out, isolated, and so it appears he or she has powers in addition to their management powers in the ability to subject a police officer to multiple processes.

1700

I wonder if the parliamentary assistant might explain why the chief of police, even though he or she may not be directly affected, is excluded from the scope of subsection 57(1). I'd be interested in his comments in that regard, exactly what's going on here, because surely, notwithstanding subsection 56(2), the chief retains his management prerogative to deal with conduct as he or she thinks fit in that management role. Why the inclusion of the chief of police when all other members of the public are excluded if they're not directly affected? Why give the chief of police powers in addition to his or her management powers?

**Mr Bob Wood:** We are against this amendment. The concern about abuse by the chiefs of police is unfounded, because ultimately the process is supervised by the provincial commission. They're going to set the policies which basically the police chiefs are going to have to follow. I think abuse is effectively impossible.

The question of why the police chief is involved in discipline is of course answered by the fact that the police chief is responsible for what the officers do. He has to be involved in discipline. This is an effective part of the disciplinary powers they have.

**Mr Ramsay:** I'd like to ask the parliamentary assistant a question. Since the chiefs of police already have the management authority of their police departments, what sort of complaints under this section do you anticipate the chief would bring against an officer? What sort of conduct were you speaking of here?

**Mr Bob Wood:** I don't anticipate what police chiefs might do. That's really something the future will tell us, and I don't want to speculate. What I do want to say, however, is that as part of the overall disciplinary powers the chiefs have, this is important, and that's why it's there.

**The Chair:** Can I ask a question of the PA? Why do you need it?

**Mr Bob Wood:** For the greater certainty thereof. It may well be that they have sufficient powers anyway, but I think it's important. That's an argument, and I'm not going to stand and deny that there isn't some force to that argument. On the other hand, I think making it crystal clear that those powers are there is an addition to effective discipline among our police forces.

**Mr Kormos:** We're not really making any progress in terms of rationalizing subsection 56(2). The complaints procedure isn't about discipline. Earlier we had the procedure compared to civil process, where people are seeking compensation or remedies. Now we've got it

referred to a disciplinary process. The goal here is to provide some means of identifying what constitutes misconduct and taking measures to ensure that it doesn't happen again. We're talking about the responsibility of police vis-à-vis their role, the general public, the integrity of policing etc.

I hear what the PA is saying, but I also hear the questions that are put to him. He's suggesting that the complaints procedure is part of the disciplinary process that the chief of police uses in supervising his or her police officers. Quite frankly, I think that's an abuse of the police complaints process, and that's exactly what police officers were concerned about, and we'll get to that later, with one of the new defined bits of misconduct. They're concerned about that being abused — they were very specific — in the realm of not reaching quotas, because of the revenue-generating aspects that are now incorporated into policing.

This is a very interesting opportunity for government members to defeat a subsection by supporting this amendment without in any way scuttling the bill or any of its goals; an opportunity for them to use their own thought processes here to understand that there's something going on here, and unless there's a better explanation offered than what has been offered, the concerns of police officers, cops, ought to be given effect to. This would be a wonderful opportunity for government members on the committee to show they're thinking for themselves and that they're not just here, at a minimum wage of \$78,004 a year, following marching orders blindly and prepared to vote merely how they're told to vote. This would be a great opportunity, without in any way impacting the overall thrust of the bill, for them to show their constituents, their families and their friends that they take their job seriously.

**Mr Ramsay:** Like my colleague, I really don't understand the need for this here, because the way police forces are structured, they are basically paramilitary operations with a chain of command. They have operating procedures and manuals. It's an extremely well-disciplined workplace, and it has to be because of the nature of the work.

I wanted to ask the parliamentary assistant, are you telling us that police chiefs in Ontario do not have the ability to manage effectively their police forces under the present powers they have?

**Mr Bob Wood:** I might say I'm quite amazed at the suggestion of some members that we shouldn't err on the side of greater caution and effective discipline. I'm quite surprised that where there's a possibility of police misconduct they are not prepared to give the benefit of the doubt to the side of the public and make sure these are properly dealt with.

However, having said that, I can only repeat what I already said earlier. To come around to your question, I'm not going to argue the merits of whether or not there's sufficient management power without this. There's quite a large number of areas. On the other hand, I personally want to come down on the side of being absolutely sure there is full power available to investigate all complaints and make sure they're rectified and the

proper discipline can be applied where it's necessary. I want to err on the side of caution and on the side of the public. I'm quite surprised to hear suggestions from some that they don't want to do that.

**Mr Ramsay:** We're both going to rise to the bait.

**Mr Kormos:** Let's err on the side of caution, then. What doesn't make sense here is that subsection 57(1) is there in juxtaposition to subsection 56(2). This is why I said you've got a contradiction there. If you're prepared, as is going to be suggested very shortly, for subsection 57(1) to be altered so that anybody can make a complaint, then any of us would have to live with the fact that a chief of police can make a complaint as well.

Your argument doesn't jibe with your exclusion of everybody else who isn't directly affected but for the chief of police. Your argument against public complaints is that if the aggrieved party doesn't feel fit to make a complaint, then there shouldn't be one. You're sucking and blowing here, Mr Wood, because you're saying that in the case where a victim of misconduct doesn't make a complaint, the chief of police can. You're trying to have it both ways.

Once again, I know you got the briefing notes, but what a great opportunity for government members to show some gumption.

1710

**Mr Ramsay:** To make the same point, Mr Wood, what you're doing in the bill is restricting the public's ability to make a complaint but enlarging the powers of the police chief. What Mr Kormos and I are talking about is certainly enlarging the ability of the public to make complaints, and we do not believe it's necessary to give the chief these extra powers under this section of the act.

**The Chair:** Is there any further discussion? If not, we have Mr Ramsay's motion of amendment. A recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 36 you can ignore. Put it behind 43. That was misnumbered. We are proceeding to item 37, Mr Ramsay's motion, which is supported by the government.

**Mr Ramsay:** I move that section 56 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Notice of withdrawal

"(3.1) If a complaint is withdrawn, the chief of police or board shall notify the police officer who is the subject of the complaint, if any, of the fact within 30 days after the withdrawal."

That's there because I think it's very necessary that the police officer, all the way through this, be kept informed of the status of any complaint that's made against her or him. I think this would be a good idea.

**The Chair:** Do we have unanimous consent to pass this amendment? All those in favour of the amendment? Carried.



Item 38: Mr Wood indicates the government is in favour of that amendment.

**Mr Ramsay:** I move that section 56 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Notice

"(4.1) If the chief of police or board continues to deal with a complaint after the complainant has asked that it be withdrawn, the chief of police or board shall notify the police officer who is the subject of the complaint, if any, within 30 days of deciding to continue."

This is for the same reason, to keep the officer informed of the progress of the complaint.

**The Chair:** Is there any further discussion? Shall the amendment carry? The amendment is carried.

Item 39.

**Mr Kormos:** I move that section 56 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Same

"(4.1) The chief of police or board, as the case may be, shall notify the complainant and the police officer or, in the case of a complaint about the policies of or services provided by a police force, the chief of police, if the chief of police or board has decided to continue to deal with a complaint after it has been withdrawn."

Obviously it's a complainant who's going to ask that a complaint be withdrawn. This wouldn't be relevant to the earlier amendment that talked about notification of a withdrawal. The complainant would know that it's being withdrawn and it's of course logical then that the police officer who is the subject matter of the complaint be notified. This expands on the previous motion so that both parties are notified if there's a decision to carry on with the complaint.

Here you've got a scenario where the complainant, for whatever reason — any number of scenarios ranging from, I guess, good ones to bad ones — has decided to withdraw. It seems to me that the complainant also has an interest in knowing of the decision to continue, because that complainant is basically having their apparent wishes being contradicted. You can have a complainant saying, "I withdrew it," and then six months down the road being visited by an investigator investigating the complaint of the complainant, who's scratching his or her head saying, "What the heck is going on?" and/or the prospect that a complainant maybe inappropriately wants to withdraw. We heard the prospect of pressure being put on a complainant etc, and notification that they intend to continue with the case gives that complainant an opportunity to raise any concerns that he or she might have had that prompted them to withdraw the complaint.

**Mr Bob Wood:** We're against this motion as we think the problem is adequately addressed by the preceding Liberal amendments.

**The Chair:** Is there any further discussion?

**Mr Kormos:** Recorded vote, please.

**The Chair:** A recorded vote is requested.

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 40.

**Mr Kormos:** I move that subsection 56(5) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Notice to police officer

"(5) Where a complaint is about the conduct of a police officer or names a police officer, the chief of police shall forthwith give the police officer notice of the substance of the complaint unless, in the chief of police's opinion, to do so might prejudice the investigation and, if the complaint is withdrawn, the chief of police shall notify the police officer forthwith of the withdrawal."

I'm going to withdraw that because I think it's redundant, an amendment having been made by Mr Ramsay to the same net effect.

**The Chair:** Item 40 is withdrawn.

**Mr Kormos:** Good thing I caught that, Chair.

**The Chair:** Yes, that was excellent. Thank you very much for your assistance.

**Mr Kormos:** We would have created a fine kettle of fish here.

**The Chair:** Item 41.

**Mr Ramsay:** I move that subsection 57(1) of the Police Services Act, as set out in section 34 of the bill, be struck out.

**Mr Bob Wood:** We are opposed to this for reasons set out earlier. This of course would have the effect of striking out the requirement of being directly affected.

**Mr Ramsay:** We've briefly discussed this this afternoon, but I think it's important to raise this again. This is a restriction on the complaint process and primarily a restriction from the previous act that allowed a third party to make a complaint directly to the police. This would now be forbidden, and I think in many circumstances, some of which we have discussed already this afternoon, it would be important to still allow third parties to make a complaint about police service.

**Mr Kormos:** I appreciate Mr Wood's referring back to earlier arguments. I just haven't heard the good arguments against allowing members of the public to make a complaint. The interesting thing is that they say "directly affected by the policy, service or conduct." I have no doubt that down the road somebody is going to want to argue that "directly affected" means being the victim of, let's say, misconduct or a poorly provided service.

But let's be very blunt. Let's say I see somebody on the street getting the daylight kicked out of them by a police officer, although I would hope that it would never happen, let's say a person who was homeless, let's say a person who was a psychiatric survivor, let's say a person who had an alcohol or drug addiction problem, and for all those reasons might be inclined to take the beating and just move on to the next day, and for that reason not be inclined at all to report the misconduct. I'm using a very extreme example and it's entirely hypothetical, but if that sort of thing were to happen, I think it would be criminal for you or me or any other member of the public

to be denied the opportunity to make a complaint about that police officer's behaviour.

1720

Again there's some hyperbole contained in that. I suppose one of the responses would be, "That doesn't preclude somebody from reporting the incident for the purpose of laying a criminal charge," because if there were an assault, you've got a criminal charge. Let's not be quite so hyperbolic then and let's talk about other misconduct that one would want to see addressed. But if you're talking about the same sort of person who's a victim, it seems to me it's in the public interest, the police interest, everybody's interest to permit complaints by members of the public. There are already thresholds contained in the bill.

You talk about an ability to screen out frivolous, vexatious types of complaints — no quarrel with that. I just haven't received any good explanation, nor has anybody else, from this PA or anybody who might have been his predecessor as to why the act would be amended in this manner.

Come clean with this. Has there been a problem with members of the public making complaints? Have you had to stem the tide here? Is that why the amendment is here? What has been the problem such that the status quo here is being interfered with? Has there been a problem with members of the public? Is the problem because of the huge number of complaints? Is the problem because of vexatious or frivolous complaints? If it's vexatious and frivolous complaints, why hasn't the bar against vexatious and frivolous complaints been adequate to deal with it?

I suspect that the status quo would reveal that the significant minority of complaints are being made by the public because by and large if somebody, anybody — and here we're talking about police officers — is going to engage in misconduct, they are disinclined to do it with an audience, but from time to time it could conceivably happen. What's the problem here? Why is the act being amended by 57(1)? I would ask that this question be put to the parliamentary assistant.

**Mr Bob Wood:** The answer to that is that there have been some complaints that are meritorious and some complaints that aren't. We're moving to what we think is a streamlined and more effective complaint system, and to the extent a complaint is received from a member of the general public, the chief has the authority to act on it if he thinks it's warranted.

**Mr Kormos:** I hear what you're saying. I don't know whether you had some whispering in the ear, that a little bird rested on your shoulder and gave you that line, but the fact is nobody can act on it, because it isn't a complaint; a complaint may be made by a member of the public only if that person was directly affected. So there is no complaint. If you're suggesting somehow there's a relationship between 56(2) and 57(1) in that the chief can act on it, no, there is no complaint. If I'm a member of the public who isn't directly affected, I can't make a complaint. I may be able to report a fact situation, but I cannot make a complaint. If the chief is then being given discretionary powers to screen these complaints, that's a highly dangerous proposition.

You talked about there being complaints in the past with merit and those that had no merit. Of course there have been those with merit and those that have had no merit, but why are you singling out complaints by the public without being able to tell us exactly what it is the public's been doing that's so wrong in terms of complaints about misconduct that would cause you to exclude them from the group of persons who can make complaints?

**Mr Bob Wood:** I don't want to repeat very much what I've already said.

**Mr Kormos:** You haven't said that much.

**Mr Bob Wood:** That's right. That's exactly right. That's how I stay out of trouble. If a member of the public not directly affected sees conduct by the police that he or she thinks is inappropriate, she can complain to the chief of police, who can proceed with a complaint if he or she thinks it's warranted.

What we're doing is developing a process here that we think is streamlined. It's civilian-supervised and effective.

**Mr Ramsay:** Looking at the scenario where a third party comes into a police station and says to presumably a desk sergeant, "I've witnessed some incident and I want to make a complaint," and the desk sergeant says, "Were you involved?" knowing the new law, and the complainant will say, "No," I think the answer is going to be, "You can't make a complaint."

I don't think the chief of police is going to find out about this, because once this is passed, the law is going to state that a third party cannot make a complaint, so it's not going to get to the chief. At the front door of the station, they're going to be told, "You do not have the authority to make a complaint," and that will be it. So that will not come up from the public to the chief. Since you've allowed the chief to make a complaint, the chief's not going to do that, because the chief is not going to hear of that incident.

**Mr Bob Wood:** That assumes, of course, that such individuals have not heard of duty counsel, which I think they would have, that they have not heard of legal clinics, have not heard of lawyers. It's not very difficult to write a letter to the chief of police.

**Mr Ramsay:** By saying that, you make it seem like it should be permissible for a third party to make a complaint, just that you can't go to the police station and get the proper form, but if you have a lawyer or write a letter directly, the possibility is you might get heard if the chief believes you've got a substantive complaint. We're really splitting hairs here. Why not just give the ability to third parties to make a complaint?

**Mr Bob Wood:** Why not have confidence in the chiefs of police and the police services boards?

**Mr Ramsay:** How are they going to know, as my colleague has said and I've stated, where some incident happens out somewhere and somebody's a witness to it and they are concerned, as a citizen?

**Mr Bob Wood:** Despite comments you've heard before, we can have great confidence in the criminal defence bar in this province.

**Mr Kormos:** I don't know what the hell the PA is talking about when he's talking about criminal defence bar getting involved. The criminal defence bar does its



incompetent best to defend people charged with criminal offences. They're not involved in the process of initiating complaints about police misconduct by third parties.

The PA is somehow trying to justify a section here which he doesn't seem to have any good justification for. He's got no numbers. We're not talking Andy of Mayberry here; Mr Ramsay was trying to get that across. Access to Chief Boothby is relatively privileged, and a large police force and any regional police force is going to be of that ilk. That's almost to be expected. People at the desk, their job is to take complaints of a criminal nature, and if you're talking about a complaint of misconduct that isn't criminal, a police officer isn't obliged to take that sort of complaint.

The PA has been doing the very best he can to stick-handle 57(1). The issue's been there from day one of the hearings. Concerns have been raised about 57(1) from day one of the hearings. When we were talking 56(2), he didn't suggest that the motive for 56(2) was so that the public could make complaints through the chief. He was talking 56(2) and raising concerns about that. He didn't justify 56(2) by saying, "The reason it's there is because of 57(1) so that the public who aren't directly affected can use the chief as a conduit through which they make their complaints." It seems that little spin on it has arisen out of the blue. That little bird that sat on his shoulder did more than whisper in his ear and it's created something of a mess.

**Mr Ramsay:** Better check his shoulder.

**Mr Kormos:** That's right. I'm going to tell you I hope there will be a request for a recorded vote. I've got to join Mr Ramsay in this, as to be expected, in strong opposition to 57(1), in view of the total lack of any rationale for its inclusion here and the fact that there seems to be an effort to restrict citizenry from doing what should be encouraged of them and making a better relationship between the police and the community. This has the net contrary effect.

**The Chair:** Is there any further discussion? If not, I'll put the question. Shall the amendment carry?

**Ayes**

Kormos, Ramsay.

**Nays**

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

1730

**The Chair:** The amendment is lost. Item 42 is out of order; it's identical to the previous one. Moving to item 43, you can throw that one out. It should read 43A. No? I'm sorry, 43 lives, and it's Mr Kormos.

**Mr Kormos:** Gosh, Chair, you were going pretty fast and loose with my amendments here. I move that section 57 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Anonymous complaints

"(2.1) A complainant who wishes to remain anonymous may file a complaint under subsection (2) without signing it or otherwise identifying himself or herself."

I anticipate some of the arguments that would be made against this because there's going to be an argument

made that whoever's being complained of has a right to know who their accuser is. However, this is entirely consistent with Mr Wood's explanation of 56(2) in contrast to 57(1). What a wonderful way of tipping off the chief of police so that he or she can become the complainant as they're entitled to under 56(2), notwithstanding 57(1).

If you really believe, I put to the parliamentary assistant, what you told us about how 57(1) and the restriction it creates on public complaints is remedied by 56(2), I think you would then be eager to have the chief of police tipped off by any way, shape or means possible. We heard, quite frankly, of the fear that accompanies — look, at the end of the day, notwithstanding the structure of a commission, you're calling the cops on the cops if you're aggrieved about something the police did to you. That's unsettling, I suggest to you, to the vast majority of people.

It seems to me that the process should be interested in learning about any misconduct that it can possibly learn about and to overcome the fear or reluctance of some parties of identifying misconduct. I would suggest that the right to anonymity and/or — you'll note that there's a right not to sign the complaint. I think that's important as well. You know that one of the first — or maybe you don't; you should know. I'm telling you now that one of the first responses historically that has been used to people who have made complaints about the police is that they're read the provisions under the Criminal Code dealing with public mischief and the sentence that's imposed for falsely accusing someone else of committing a criminal offence.

That scares the daylight out of any number of people who understand that, once again, they're reporting an offence to the police. The first thing an interviewing officer does is explain to them what constitutes public mischief — to wit: falsely accusing somebody of a crime — and then tells them that that's good for a whack of time in jail if you're convicted.

The opportunity not to sign it, even though a person makes it and otherwise identifies himself, it seems to me is crucial as well, because it could go some way towards persuading people to simply get the facts down and get that complaint in. It seems there's a strong public interest in encouraging and facilitating the making of complaints. There's strong protection in terms of screening out frivolous, vexatious complaints, and that would more than offset the impact of this amendment.

**Mr Bob Wood:** We're opposed to this basically because we think that for the complaints to come forward the complainant should indeed be identified so that the person complained about understands what the complaint is. We would note that indeed if anonymous complaints are desired to be made to police chiefs or to the police services board, that's certainly open to anonymous persons to do so.

**The Chair:** Is there any further discussion in regard to Mr Kormos's proposed amendment? If not, all those in favour of the amendment? All those against? The amendment is lost.

We are now proceeding to 43A-R, which is a government motion.



**Mr Bob Wood:** I move that section 57 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Form may be used

"(2.1) If a complainant wants to make his or her complaint on a standard form, he or she may use a form approved for the purpose by the commission; the approved form shall be available in every police station and detachment and in the commission's offices."

That was a suggestion made by some of the presenters which we thought had merit.

**The Chair:** Is there any discussion or questions?

**Mr Kormos:** I point out that it doesn't have to be legislated for there to be a form available to complainants to utilize, because subsection 57(2) of course entails any form that the government might want to propose. What's interesting here, though, is the availability of the form in every police station and detachment and in the commission's offices.

I'm wondering, to the PA, with the staff that's there, in the act that's being amended, is there a general penalty provision such that this is enforceable? That is to say, what's the remedy for me if I go into a police station and discover that they don't have forms? How do I enforce that without there being a general penalty section?

**Mr Bob Wood:** You can enforce it by complaining to the provincial commission.

**Mr Kormos:** The forms aren't there for me to do it on.

**Mr Bob Wood:** Or indeed, to the Solicitor General.

**Mr Kormos:** Is there a general penalty provision in the act?

**Mr Bob Wood:** There is not.

**The Chair:** Is there any further discussion? If not, I'll put the question. Shall the amendment carry?

**Mr Ramsay:** I take it there is a space for a signature on this form.

**The Chair:** The amendment is carried, 43A-R. Our next one is item 44.

**Mr E.J. Douglas Rollins (Quinte):** You wanted to put 36 there.

**The Chair:** No, that was 43A. Thirty-six you can throw out; 43A was same as item 36. So we're now dealing with item 44.

**Mr Kormos:** I move that section 57 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsections:

"Monthly reports on investigation

"(4.1) The chief of police or board, as the case may be, shall send monthly reports to the complainant and, if the complaint is about the conduct of a police officer, to the police officer that is the subject of the complaint, until the conclusion of the investigation into the complaint.

"Opportunity to reply before decision made

"(4.2) The complainant and police officer shall be given a copy of the final report into the complaint before it is given to the chief of police or board and shall be given opportunities to reply at any stage during and at the conclusion of the investigation and before a decision on the complaint is made."

Obviously, a complaints process — and to consider it otherwise I think would be very foolhardy — is con-

sidered a serious matter by the person being complained about, in most cases the police officer, and by the person making the complaint. Sometimes these investigations carry on for a significant period of time.

It's important, I believe, in the interest of fairness to all the parties involved, that there be this monthly reporting to both the subject of the complaint and the complainant to advise them as to progress that's being made. One could expect some suggestion as to anticipated period of time before the matter is resolved. This will go, in my view, a long way to resolving the tension that accompanies being complained about or making a complaint.

Second, with respect to (4.2), I think this is an incredibly effective fail-safe measure. It gives both parties an opportunity to respond to what in effect are conclusions about fact before those conclusions are acted upon. That could avoid a great deal of the modest appeal availability to people here. It could save a whole lot of time and energy on the part of the commission and is not unique. This is a technique that's used in any number of litigious processes and one that's become increasingly common and one that I think will be valuable to the process here both for police officers and for civilian complainants.

1740

**Mr Ramsay:** Not only all of the above that my colleague states, but also it would be a mechanism to catch factual error right at the beginning of an investigation, that either party could see that maybe the facts didn't get translated correctly to the investigation and right away this could be caught and corrected; and, for sure, keeping the complainant and the named officer informed as to the progress of the investigation I think is very important.

**Mr Bob Wood:** We are against this amendment basically because we think it imposes significant cost without any real benefit.

**Mr Kormos:** Wow. Mr Wood doesn't think that the stress that's on a police officer against whom a complaint is made and remains unresolved has to be addressed. Mr Wood doesn't think that the problem of complaints being lost in the process — he should be aware that because of the fact that you're talking about police policing police and that police are increasingly overburdened, there are going to be any number of instances anywhere in Ontario about complaints falling between the cracks and disappearing.

In terms of monthly posted notice to the subject of the complaint and to the complainant, you're talking about postage and preparation of what in most cases will be a boilerplate sort of thing, indicating, as I say, anticipated time before resolution, time before the investigation could get under way, those sorts of things. It would also go a long way towards encouraging alternative resolutions. There was a whole lot of discussion about that and I think everybody was impressed by the comments of police officers and civilians who talked about the need for informal resolution.

If you've got a system like this where you're reporting on a monthly basis — let's look at it this way: An aggrieved party who, upon reflection, as the weeks pass after an incident, after a confrontation, realizes that their



feathers were far more ruffled at the time than they are now — they've effectively had a chance to sleep on it. You'll find in many instances aggrieved parties, if they're kept advised and updated and maintain some participation in the process by virtue of these monthly reports, may be reverting to informal resolution if they recognize, for instance, that this is going to be inevitable. Some of these things aren't going to be wrapped up quickly. There's going to have to be some prioritization of complaints. Obviously there's going to have to be some regard to whether the kind of complaint, even if true, is of such a modest nature that it has to be displaced by the complaints about far more serious conduct that could constitute a danger to the general public.

I find it very disturbing that the PA has such low regard for police officers who are subject matters of complaints, understanding that these can be extremely stressful, and as I say, for the persons making those complaints. The second part of it, which he didn't comment on, the opportunity to address the determination of facts, seems to me once again — and Mr Ramsay referred to this as well — an invaluable tool in the whole process.

**The Chair:** Mr Wood?

**Mr Bob Wood:** I have nothing to add, Mr Chairman.

**The Chair:** Is there any further discussion before I put the amendment? Shall the amendment carry? All those in favour?

**Ayes**

Kormos, Ramsay.

**Nays**

Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion is lost.

Item 45.

**Mr Ramsay:** I move that subsection 57(6) of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following clause:

"(b.1) a chief of police."

This is just another way of going at the people allowed to make a complaint. This is a list of exclusions and I wish to add the chief of police to that list.

**Mr Bob Wood:** We do not favour this motion as we think it's unnecessary. We think it's basically covered by clause 57(6)(c).

**Mr Kormos:** The whole section is interesting because it says a member of the public does not include those listed people, and then 56(1) says, "Any member of the public may make a complaint." So those people aren't among the group of people who are entitled to make a complaint? We then have 56(2) which says, "The chief of police may...make a complaint," which specifically identifies the chief of police.

I think this is a wonderful little section and I think it will cause countless problems down the road. Although I'm going to support Mr Ramsay's amendment, I'm going to find myself not supporting part V. But I just want to put on the record that I think it's delightful that this type of draftsmanship will burn money for more than a few administrative law lawyers down the road, and they will undoubtedly be grateful to you, Mr Wood.

**The Chair:** Is there any further discussion? We have a motion of amendment by Mr Ramsay, being item 45. Shall the amendment carry? All those in favour? All those against? The motion is lost.

Item 46.

**Mr Bob Wood:** I move that subsection 57(6) of the Police Services Act, as set out in section 34 of the bill, be amended by striking out "or" at the end of clause (d) and by adding the following clause:

"(d.1) a person selected by the council of a municipality to advise another municipality's board under subsection 6.1(2), if the board is responsible for the police force that is, or a member of which is, the subject of the complaint; or."

The effect of this is to exclude the adviser to the police services board from the definition of "member of the public" with respect to complaints made under part V. It's a consequential amendment to subsection 6.1(2) which gives permissive authority to a municipality contracting with another municipality for police services to have an adviser.

**The Chair:** Is there any discussion or questions? If not, I'll put the question. Shall the amendment carry? The amendment is carried.

Item 47.

**Mr Bob Wood:** I move that part V of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following section:

"Informal complaint resolution

"57.1(1) If, at any time before or during an investigation into a complaint about the conduct of a police officer, the conduct appears to be obviously conduct that is not of a serious nature, the chief of police may resolve the matter informally, if the police officer and the complainant consent to the proposed resolution.

"Same

"(2) If, at any time before or during an investigation into a complaint about the conduct of a chief of police or deputy chief of police, the conduct appears to be obviously conduct that is not of a serious nature, the board may resolve the matter informally, if the chief of police or deputy chief of police and the complainant consent to the proposed resolution.

"Inadmissibility of statements

"(3) No statement made during an attempt at informal resolution of a complaint under this section is admissible in a civil proceeding, including a proceeding under subsection 63(16) or 64(16) or a hearing held under this part, except with the consent of the person who made the statement.

"Non-application of this part

"(4) No other provisions of this part apply in respect of an informal resolution under subsection (1) or (2)."

This is a new subsection which clarifies that non-serious matters can be resolved at any time during the proceedings. All parties must agree to the informal resolution, and it provides that no statements made during the attempt at informal resolution are admissible in a civil proceeding without consent of the party making it.

1750

**Mr Kormos:** I suppose the language "appears to be obviously conduct that is not of a serious nature" — what

are we talking about? Is there any source in the act that gives us some guidelines as to what constitutes "serious?"

**Mr Bob Wood:** There's certainly no definition. I'm aware of no case law on the point.

**Mr Kormos:** It's interesting. It's not even a subjective thing where the chief of police is determining that it's not serious.

**Mr Bob Wood:** No, it is subjective. The complainant and the person complained about determine it, so if they don't consent, they don't do it.

**Mr Kormos:** Quite right, but you've got —

**Mr Bob Wood:** Who are, after all, the people who should determine this.

**Mr Kormos:** But you don't have a subjective test here. In other words, the chief of police appears to be called upon to initiate — somebody's being called upon here to determine that it's obviously not serious.

**Mr Ramsay:** It has to be done by agreement.

**Mr Bob Wood:** And the parties are doing it.

**Mr Kormos:** We don't see that indicated here.

**Mr Bob Wood:** Yes, it is. They have to consent.

**Mr Kormos:** But how is this process of informal resolution initiated? If you said, "if a chief of police determines" — bear with me — "that that conduct is obviously not serious, he may then with the consent of the parties resolve the matter informally," but there's no beginning point here. There's no starting point. There's nobody doing the testing, because if you say it's up to the parties, then the parties can consent to an informal resolution because you're not calling upon anybody to determine whether or not it's serious such that it's entitled to be informally resolved. Just strange, peculiar stuff here. It's a little bit circular, I think.

**Mr Ramsay:** I might say to my colleague that maybe we could make this too complicated. I understand where he's coming from on this. You might want to define this closely and say "a complaint of a non-violent nature." By leaving it open this way, this sort of process would work in a very informal nature. The chief on identifying this — in his own view, granted, that maybe this is non-serious and could be solved informally — will probably then make those inquiries, first to the complainant, and say, "Listen, what do you think if we got the officer involved to apologize?"

I think you've heard this many times; the police would come to us and say that. I think you test these things out. If it's not going to be to the satisfaction of the complainant, it's not going to happen anyway, so maybe we'd be careful not to put too much restriction here, because the parties are all going to have to agree anyway. You could start to outline it — okay, of a non-violent nature and put some other criteria in there — but maybe it's better not to restrict it too much and allow the chief to act as sort of an informal arbiter there and maybe solve some of these cases if all the person wants is an apology. Of

course the officer would be happy with that too. Therefore it doesn't appear on anybody's record. Maybe this is the way to handle this.

**Mr Kormos:** I'm supportive of the proposition. I have concerns, though, about how the process gets initiated because of what subsection (1) says. Of course you heard during the course of the committee hearings on the issue of consent about how well guided or whether there's implicit pressure on — I'm in support of it. I just think it's unfortunate that there wasn't a more well-defined starting point for this process. It seems to me that to have said "where the chief of police determines that the matter is not of a serious nature, the parties may on consent have their differences resolved by way of arbitration" — I just raise it because it's always interesting stuff for people to go back and look at Hansard when they're grappling with these sorts of things.

**Mr Bob Wood:** I would urge members of the committee not to attempt to formalize what's intended to be an informal process. I think the controls are there as outlined earlier.

**The Chair:** If there's no further discussion, I'll put the amendment. Shall the amendment carry? The amendment is carried.

Item 48.

**Mr Ramsay:** I move that section 58 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Same

"(2.1) The chief of police shall also notify the police officer who is named in the complaint, if any, of his or her determination respecting the nature of the complaint within 10 days of making the determination."

This is consistent with the other amendments I have brought forward. I think it's very important that the police officer be kept abreast of the progress of the investigation right to, in this case, its conclusion.

**Mr Bob Wood:** We're opposed because we think it's unnecessary.

**Mr Ramsay:** I'd just like to say one other thing. With the nature of these types of complaints and the stress that can be placed on police officers, it would seem to me to be almost the considerate thing to do, to make sure that there was a time frame that determined how soon the police officer would be informed that the case was resolved.

**The Chair:** Can we just get rid of this one, Mr Ramsay's amendment?

**Mr Ramsay:** Not a very nice way of saying it.

**The Chair:** That's what's going to happen to it, though, Mr Ramsay, I think.

Shall the amendment carry? All those in favour? All those against? The amendment is lost.

We adjourn till 3:30 tomorrow afternoon, May 27.

*The committee adjourned at 1758.*











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**Official Report  
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(Hansard)**

Tuesday 27 May 1997

**Journal  
des débats  
(Hansard)**

Mardi 27 mai 1997

**Standing committee on  
administration of justice**

Police Services  
Amendment Act, 1997

**Comité permanent de  
l'administration de la justice**

Loi de 1997 modifiant la Loi  
sur les services policiers



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 27 May 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 27 mai 1997

*The committee met at 1532 in room 228.*

## POLICE SERVICES AMENDMENT ACT, 1997

LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Vice-Chair (Mr Doug Rollins):** Ladies and gentlemen, we'll call this meeting to order. I think on your desk you have a copy of a presentation made by the Kingston Police Services Board. We've been directed that it has been accepted.

We'll turn now to number 49. Mr Wood, please.

**Mr Bob Wood (London South):** I move that subsection 58(3) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted: "Frivolous, vexatious, bad faith complaints"

"(3) The chief of police may decide not to deal with any complaint about the police force or about a police officer, other than the chief of police or deputy chief of police, that he or she considers to be frivolous or vexatious or made in bad faith."

"Complaint more than six months old"

"(3.1) The chief of police may decide not to deal with any complaint made by a member of the public if the complaint is made more than six months after the facts on which it is based occurred."

This of course is an amendment which allows the chief of police not to deal with bad-faith complaints. There is already provision in 58(3) for frivolous or vexatious complaints.

**Mr Peter Kormos (Welland-Thorold):** We discussed the six-month limitation period yesterday and I trust that (3.1) is to comply with the current act in terms of the limitation period.

**Mr Bob Wood:** I'm sorry, it's to comply?

**Mr Kormos:** With the current act and the limitation period contained in the current act.

**Mr Bob Wood:** You mean is it the same as the current limitation period?

**Mr Kormos:** Yes.

**Mr Bob Wood:** The current act deals with this under subsection 77(7). That's the equivalent section.

**Mr Kormos:** Yes, that's the six-month limitation period on making a complaint.

**Mr Bob Wood:** Yes.

**Mr Kormos:** That having been said, "made in bad faith" clearly is the addition or the amendment to subsection (3) contained here. The "frivolous or vexatious" is already in the bill. The "bad faith" provision is added by virtue of your amendment.

**Mr Bob Wood:** Yes.

**Mr Kormos:** Give us some background there. I would like to know why "bad faith" is added to "frivolous or vexatious."

**Mr Bob Wood:** Basically we think if a complaint is made in bad faith it shouldn't be dealt with.

**Mr Kormos:** I understand, but the bill originally read "frivolous or vexatious." Now you have "or made in bad faith." I'm not disputing the concept of bad faith. I'm wondering why that was added by virtue of the amendment when "frivolous or vexatious" implies bad faith in its own right.

**Mr Bob Wood:** No, it does not. It's quite different. They're two quite different concepts.

**Mr Kormos:** Perhaps you could help me with that. I'm just from a small town.

**Mr Bob Wood:** You're a lawyer. You should know.

**Mr Kormos:** No, I'm just from a small town, Mr Wood, and you're the parliamentary assistant. I'd like to know why "bad faith" is added here in addition to "frivolous or vexatious."

**Mr Bob Wood:** I think you know what a bad-faith complaint is, and we think those should be dismissable.

**Mr Kormos:** Please, Mr Wood. You've amended the bill by adding "in bad faith." I suppose the next question to you is, is the concept of bad faith inherent in any part of the original act, of this substantive act?

**Mr Bob Wood:** Subsection 85(1) of the Police Services Act says that the chief of police is not required to deal with complaints made in bad faith.

**Mr Kormos:** But we're dealing here with —

**Mr Bob Wood:** The Police Services Act.

**Mr Kormos:** Quite right. We're dealing here with amendments to section 58. Once again, I'm asking you if the — well, I'll put it this way, is that frivolous, vexatious, bad-faith trilogy consistent throughout the act?

**Mr Bob Wood:** Throughout what act?

**Mr Kormos:** The Police Services Act.

**Mr Bob Wood:** Well, the concept is in the act.

**Mr Kormos:** Of bad faith?

**Mr Bob Wood:** Yes, it is. Subsection 85(1).

**Mr Kormos:** Bars complaints made in bad faith?

**Mr Bob Wood:** It says that the chief of police is not required to deal with complaints made in bad faith.

**Mr Kormos:** Very interesting. Thank you kindly.

**Mr Bob Wood:** You're welcome. It's a pleasure to help.

**Mr Bruce Crozier (Essex South):** I was just going to add that I'm not a lawyer, so it would have been helpful if that had been explained.

**Mr Terence H. Young (Halton Centre):** But you are from a small town.

**Mr Crozier:** I certainly am, one of the finest small towns in Ontario.

**Mr Bob Wood:** I think Mr Kormos is well aware of what bad faith means. In deference to Mr Crozier, if it's not a sincere complaint, if it's for some purpose other than to actually make a complaint, that's basically bad faith, if I had to try and define it in a sentence or two.

**Mr Kormos:** There you go, Chair. That was free legal advice and it was worth just about as much as we paid for it.

**The Vice-Chair:** Probably. The wishes of motion 49? Shall it carry? Carried.

Moving to number 50, an NDP motion.

**Mr Kormos:** I move that subsection 58(4) of the Police Services Act, as set out in section 34 of the bill, be struck out.

My enthusiasm about this amendment is enhanced by virtue of the amendment just made. Clearly there is a process that would deal with frivolous or vexatious complaints, and quite frankly it's an incredible power to give to a chief of police, to make the determination of frivolous, vexatious and indeed bad faith. By God, it took several exchanges for Mr Wood to get into a definition of bad faith. This is designed to protect complainants I suppose from frivolous, vexatious and bad-faith determinations by chiefs of police when it comes down to determining whether in fact they're going to deal with them or not.

**Mr Bob Wood:** We oppose this motion. It would remove the requirement for the complainant to be directly affected, which of course, as we've said earlier, we don't support.

1540

**The Vice-Chair:** All those in favour of this motion? Opposed? Motion defeated.

Moving to 51, a government motion.

**Mr Bob Wood:** I move that section 58 of the Police Services Act, as set out in section 34 of the bill, be amended,

(a) by inserting "(3.1)" after "(3)" in the second line of subsection (5); and

(b) by inserting "(3.1)" after "(3)" in the first line of subsection (7).

This is a consequential amendment to the previous motion dealing with subsections 58(3) and 58(3.1). It requires the chief of police to notify the subject police officer and the complainant in writing of his or her decision not to deal with bad-faith complaints or a complaint more than six months old, and of the complainant's right to ask the OCCPS to review the chief's decision. This provision currently exists in the bill in the case of frivolous or vexatious complaints or in cases where the complainant is not directly affected.

**The Vice-Chair:** Any comments? Shall the motion carry? Carried.

Moving to 52, an NDP motion.

**Mr Kormos:** In view of the vote on our previous amendment regarding subsection (4), I request that this amendment be withdrawn.

**The Vice-Chair:** Thank you. Moving to 53, a Liberal motion.

**Mr Ramsay:** I move that section 58 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Same

"(9) The chief of police shall notify the police officer named in the complaint, if any, within 10 days of the complainant giving notice under subsection (8) that he or she will not ask the commission to conduct a review."

Again, this is to be fair to the police officer involved in any of these complaints, that they be regularly kept informed of any change of status in the complaint or investigation.

**Mr Kormos:** We support this amendment. There have been a number of amendments, some of them generously given the nod by the parliamentary assistant. The whole complaints process should be as open and transparent a process as possible. Once again, this amendment in our view leads towards that end or towards that goal. We'll be supporting it.

**Mr Bob Wood:** We'll be opposing this. We think it's unnecessary for the reasons given earlier.

**The Vice-Chair:** Is it the wish of the committee that this carry?

**Mr Kormos:** Recorded vote.

**Ayes**

Crozier, Kormos, Ramsay.

**Nays**

Boushy, Beaubien, Ross, Bob Wood, Young.

**The Vice-Chair:** That's lost.

Number 54, a motion by the NDP.

**Mr Kormos:** I suspect that perhaps we should deal with 58, as amended. I'm sorry, we're still on section 34. My apologies.

I move that part V of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following section:

"Copies of complaints to commission

"59.1(1) A copy of every complaint and withdrawal of a complaint received in a police station or detachment or made by a chief of police shall be forwarded to the commission forthwith by the chief of police.

"Monthly reports to commission

"(2) Every chief of police shall send a monthly report to the commission on the complaints process in the previous month and shall provide the commission with full disclosure regarding all public complaints."

If I may, very briefly, this is in tune with a whole number of submissions that were received by the committee and with a number of amendments that were moved yesterday, some of them successful in terms of receiving the support of the government, others not.

The thrust of Bill 105 is to relieve the commission of a great deal of its oversight responsibility. This restores some capacity to the commission to monitor the com-



plaints processes, I suppose at the very barest level, for the purpose of determining even statistically the number of complaints, the nature of complaints and how quickly they're being processed. Obviously if the commission were to take a more complex oversight role, it would be to review the actual progress, or the style of investigation and the progress of that investigation.

This is a very important amendment if there's going to be any meaningful role for the commission. I will urge government members to show some courage, to show the courage of their convictions, they wanting to impress their constituents with their concern about there being a need for oversight. This is an opportunity for those government members to show that they're more than mere trained seals jumping at the behest of the little parliamentary assistant here, who makes his \$11,000 a year, give or take, for giving his marching orders. Here's the opportunity to get that ball off your nose and impress your constituents.

**Mr Ramsay:** Do you think that's winning them over?

**Mr Kormos:** Well, I'm doing by best, Mr Ramsay. You know it's my subtle style, one of implication rather than direct confrontation. Here they are. Here's their opportunity to show themselves to be worthy of the \$78,000-plus a year that each one of them earns for representing their constituents.

**Mr Ramsay:** I want to voice my support for this amendment, and I'll tell you why: I think this is one of those classic cases where justice, to be done, really has to be seen to be done. If complainants and police officers are to have confidence in the system, then I think it would be wise to have the commission be informed of these complaints. Then everybody would know that there is a monitoring going on, that there is a watchdog there; not that any action has to be taken, but that they now have been lodged with the commission. I think that would be just a good check and balance to the system. Everybody would know that the disposition of the complaint is being watched. I think that would be important. We would get fairer and maybe quicker disposition of the complaints by everybody involved knowing that the commission has a copy of that.

**Mr Crozier:** Having served on a police commission, as others of you may have — I was on the municipal side, a municipal appointee to the commission — I support that as well because there seem to be too few times when the commission can give substantive recommendations to the police services to better understand how the police services operate. I think this would be one of those cases where any member of the commission who wanted to serve the commission to its fullest would want to know what kind of complaints come into the police department, and be able to monitor them.

**Mr Bob Wood:** The government is opposed to this motion. We think it would create unnecessary and costly paperwork. The civilian commission exercises control of the process by being the court of appeal, so to speak, and that's the way the accountability is achieved.

**Mr Crozier:** I disagree with that. I don't know, Mr Wood, whether you've ever served on a police commission or not, but I think it's not just an appeal process. I think it's one where you want to monitor the effective-

ness of your police services. If you weren't aware of the complaints that were coming in and didn't have any idea of how the police services were serving the public, then I think this could be a very valuable tool. I've been there. I've been on a police commission and I think, from the experience I've had, this would be a valuable tool.

**Mr Kormos:** I'm concerned about the reference to an unnecessary amount of paperwork. This government wants to portray itself as high-tech, up to date, in the groove. It talks about teleconferencing, even though, mind you, it sent Mr Flaherty, Mr Wood and Mr Brown to New York City on a little junket last week to hang around with New York City cops, spend a little time in Times Square, to what end, Lord only knows, rather than using teleconferencing, which they tout ad nauseam. Surely e-mail could be effective to achieve the end of the purpose contained in this amendment; no paperwork at all, hard drive to hard drive. But then again I suppose, after we witness junkets like the one to New York City, we see some backing off on the philosophical position that the government has assumed about saving money. Mr Wood is in a spin, clearly.

1550

**The Vice-Chair:** Any other comments? Is it the wish of the committee that this motion carry?

**Mr Kormos:** Recorded vote, please.

**The Vice-Chair:** Recorded vote.

**Ayes**

Crozier, Kormos, Ramsay.

**Nays**

Boushy, Beaubien, Flaherty, Ross, Bob Wood, Young.

**The Vice-Chair:** The motion fails.

Moving to number 55, an NDP motion.

**Mr Kormos:** In view of the committee's disposition of an earlier amendment which would have deleted subsection 58(4), I'm asking that this be withdrawn, please.

**The Vice-Chair:** It's withdrawn.

Moving to 56, a government motion.

**Mr Bob Wood:** I move that section 60 of the Police Services Act, as set out in section 34 of the bill, be amended,

(a) by inserting "(3.1)" after "58(3)" in the first line of subsection (1); and

(b) by inserting "(3.1)" after "58(3)" in the sixth line of subsection (2).

This is a consequential amendment to the motion dealing with subsections 58(3) and (3.1). The change to subsection 60(1) requires the chief to review every conduct or policy service complaint and take any action or no action, except when deemed to be made in bad faith or when the complaint is more than six months old. This provision already exists in section 61 for frivolous or vexatious complaints and for cases where the complainant is not directly affected.

The change to subsection 60(2) requires a chief to report to the board on the disposition of complaints upon request, including the disposition of complaints deemed made in bad faith or when the complaint is more than six months old. This provision already exists in subsection

60(2) for frivolous or vexatious complaints and for cases where the complainant is not directly affected.

**The Vice-Chair:** Comments? Is it the wish of the committee that the motion carry? Carried.

Number 57.

**Mr Bob Wood:** We're in favour of this motion, by the way.

**Mr Kormos:** God bless you, Mr Wood.

I move that section 60 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"If no action taken

"(3.1) If the chief of police decides to take no action with respect to the complaint, he or she shall provide the complainant with reasons for the decision."

This is consistent with our overall regard for there being a candid and transparent process. It complements subsection (3), which some might have believed provided for this type of notification, but (3.1) provides clarification to indicate that indeed even if no action is taken, if that determination is made by a chief, the complainant shall be advised.

**The Vice-Chair:** Mr Wood, do you want to speak against it?

**Mr Bob Wood:** No.

**The Vice-Chair:** All in favour? Motion carried.

Number 58, a government motion.

**Mr Bob Wood:** I move that subsection 61(2) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Frivolous, vexatious, bad faith complaints

"(2) The detachment commander may decide not to deal with any complaint described in subsection (1) that he or she considers to be frivolous or vexatious or made in bad faith.

"Complaint more than six months old

"(2.1) The detachment commander may decide not to deal with any complaint described in subsection (1) if the complaint is made more than six months after the facts on which it is based occurred."

This of course is consequential to the earlier ones dealing with municipal police forces.

**The Vice-Chair:** Any comments? Is it the wish of the committee that the motion carry? Carried.

Number 59.

**Mr Kormos:** I move that subsection 61(3) of the Police Services Act, as set out in section 34 of the bill, be struck out.

This is again to be consistent with our position that complaints made by persons who are not directly affected should be valid ones, and that is that third-party complaints should be acceptable. We've presented previous amendments which support that position. We maintain that it's imperative that third-party complaints, as the status quo is now, be legitimate complaints for the purpose of initiating processes of investigation and determination. It's important for the integrity of policing and for the community to accept its role to act as monitors of what takes place in their neighbourhoods in their city.

**Mr David Ramsay (Timiskaming):** I concur with this and really plead with the parliamentary assistant to again consider such an amendment. The way this legislation is

written, it is fine for anybody who is literate, confident, well established in society, but for any of those on the margins of society, this bill fails them. It's very important for those who are not equipped to make a complaint that a third party can do that on their behalf. That's very important.

We get all wrapped up in our world here and feel everybody would have the confidence to march on down to the local constabulary and make a complaint. But I think, as we know, many people are totally intimidated walking into a police station and maybe some aren't even competent in English and are newly arrived to this country and for whatever reason just would not be able to make a complaint. It's very important that a third party be allowed to make such a complaint.

**Mr Bob Wood:** We're opposed to this motion for the reasons set out yesterday.

**Mr Kormos:** Recorded vote.

**Ayes**

Crozier, Kormos, Ramsay.

**Nays**

Beaubien, Boushy, Flaherty, Ross, Bob Wood, Young.

**The Vice-Chair:** I declare it failed.

Motion 60, an NDP motion.

**Mr Kormos:** In view of the committee's decision on the previous motion, this one should be withdrawn, please.

**The Vice-Chair:** Withdrawn.

Number 61.

**Mr Bob Wood:** I move that section 61 of the Police Services Act, as set out in section 34 of the bill, be amended,

(a) by inserting "(2.1)" after "(2)" in the third line of subsection (4); and

(b) by inserting "(2.1)" after "(2)" in the sixth line of subsection (5).

This is a consequential amendment to the previous motion dealing with subsections 61(2) and (2.1). It parallels the provisions in the bill already with respect to frivolous or vexatious complaints.

**The Vice-Chair:** Any comments? All those in favour? Opposed? The motion carries.

Number 62, an NDP motion.

**Mr Kormos:** I move that section 61 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"If no action taken

"(6.1) If the detachment commander decides to take no action with respect to the complaint, he or she shall provide the complainant with reasons for the decision."

This is consistent with the previous motion we made providing disclosure in the event that rather than a determination there is a decision to take no action, in this case by a detachment commander rather than by a chief of police.

**Mr Bob Wood:** The government favours this motion.

**The Vice-Chair:** Shall this motion carry? Motion 62 is carried.

Number 63, an NDP motion.



**Mr Kormos:** Withdrawn, please, Chair, in that it's no longer relevant because of the government's rejection of the earlier New Democratic Party amendment.

**The Vice-Chair:** Moving to number 64, a government motion.

**Mr Bob Wood:** I move that subsection 62(1) of the Police Services Act, as set out in section 34 of the bill, be amended by inserting "(3.1)" after "58(3)" in the first line.

It's consequential to the motion dealing with subsections 58(3) and (3.1).

**The Vice-Chair:** Any comments on that motion? Shall the motion carry? Number 64 carries.

Number 65, an NDP motion.

1600

**Mr Kormos:** I move that section 62 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"If no action taken

"(3) If the commissioner decides to take no action with respect to the complaint, he or she shall provide the complainant with reasons for the decision."

Again, this is consistent with earlier amendments to the same effect regarding chiefs of police and detachment commanders.

**Mr Bob Wood:** The government supports this.

**The Vice-Chair:** Does this motion carry? Opposed? The motion is carried.

Item 66.

**Mr Kormos:** To be withdrawn please, Chair, as it's no longer relevant.

**The Vice-Chair:** Number 67, a government motion.

**Mr Bob Wood:** I move that subsections 63(1), (2), (3), (4), (5) and (6) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Complaints about police officer's conduct

"63(1) Subject to subsections 58(3), (3.1) and (4), the chief of police shall cause every complaint made about the conduct of a police officer, other than the chief of police or deputy chief of police, to be investigated and the investigation to be reported on in a written report.

"Investigation assigned to another police force

"(2) A municipal chief of police may, with the approval of the board and on written notice to the commission, ask the chief of police of another police force to cause the complaint to be investigated and to report, in writing, back to him or her at the expense of the police force in respect of which the complaint is made.

"Same, re OPP officer

"(3) In the case of a complaint about the conduct of a police officer who is a member of the Ontario Provincial Police, the commissioner may, on written notice to the commission, ask the chief of police of another police force to cause the complaint to be investigated and to report, in writing, back to him or her at the expense of the Ontario Provincial Police.

"Same, more than one force involved

"(4) If the complaint is about an incident that involved the conduct of two or more police officers who are members of different police forces, the chiefs of police whose police officers are the subjects of the complaint

shall agree on which police force (which may be one of the police forces whose police officer is a subject of the complaint or another police force) is to investigate the complaint and report, in writing, back to the other chief or chiefs of police and how the cost of the investigation is to be shared.

"Same

"(5) If the chiefs of police cannot agree under subsection (4), the commission shall decide how the cost of the investigation is to be shared and,

"(a) shall decide which of the chiefs of police whose police officer is a subject of the complaint shall cause the complaint to be investigated and report in writing back to the other chief or chiefs of police; or

"(b) shall ask another chief of police to cause the complaint to be investigated and to report back in writing to the chiefs of police."

**Mr Kormos:** We concur.

**Mr Ramsay:** I would just like, before we vote on it, to know what the explanation is. It's such a long text.

**Mr Bob Wood:** I'll try to summarize. Consequential amendment to the motion dealing with subsection 58(3) and (3.1): The amendments to subsections (1), (2), (3), (4) and (5) require a written report to be prepared following an investigation, and it deletes subsection 63(6), which requires that the chief of police consult with a crown attorney at any point during the investigation if the police officer's conduct may constitute an offence under a law of Canada or of a province or territory.

**The Vice-Chair:** Is it the wish of the committee that the motion carry?

**Mr Kormos:** The amendment effectively inserts subsection (3.1) into subsection (1) and it adds, "to be reported on in a written report," to subsection (1). But the rest of the text is identical, other than for the addition of, "in writing."

**Mr Bob Wood:** No. It deletes the requirement that the chief consult with a crown attorney.

**Mr Kormos:** We'd better check this, then.

**Mr Bob Wood:** We're deleting subsection 63(6).

**Mr Kormos:** Look, (1), (2), (3), (4) and (5) merely add subsection (3.1) and the words "in writing."

**Mr Bob Wood:** We're attempting to draw your attention to the fact that it also deletes subsection 63(6).

**Mr Kormos:** Quite right.

**Mr Bob Wood:** That's the change, if you're looking for substantive change.

**Mr Kormos:** But you see, a nice amendment would have been to say, "Delete subsection (6)."

**Mr Bob Wood:** If you'll pardon the expression, we've done an omnibus amendment.

**Mr Kormos:** It's ominous.

**Mr Bob Wood:** Omnibus.

**Mr Kormos:** So was the omnibus bill.

**Mr Bob Wood:** It was omnibus.

**The Vice-Chair:** Any further comments? Is it the wish of the committee that the motion carry? It's carried.

We move to 69, a government motion.

**Mr Bob Wood:** I move that subsections 63(7) and (8) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

**"Unsubstantiated complaint"**

"(7) If, at the conclusion of the investigation and on review of the written report submitted to him or her, the chief of police is of the opinion that the complaint is unsubstantiated, the chief of police shall take no action in response to the complaint and shall notify the complainant and the police officer who is the subject of the complaint, in writing, together with a copy of the written report, of the decision and of the complainant's right to ask the commission to review the decision within 30 days of receiving the notice.

**"Hearing to be held"**

"(8) Subject to subsection (12), if, at the conclusion of the investigation and on review of the written report submitted to him or her, the chief of police is of the opinion that the police officer's conduct may constitute misconduct, as defined in section 73, or unsatisfactory work performance, he or she shall hold a hearing into the matter."

These are consequential amendments to sections 63(1), (2), (3), (4) and (5). It also changes subsections 60(7) and (8), which make reference to this written report and require the chief of police to provide a copy of the written report on the investigation to the police officer and complainant.

**Mr Ramsay:** I'd like to ask the parliamentary assistant what "unsatisfactory work performance" is?

**Mr Bob Wood:** That can be any work performance within all applicable statutes or indeed practices that would come within that category.

**The Vice-Chair:** Any further comments? Is it the wish of the committee that the motion carry? Number 69 carried.

Number 70, an NDP motion.

**Mr Kormos:** I move that subsection 63(12) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Informal resolution if conduct not serious"

"(12) The chief of police may resolve the matter informally, without holding a hearing, at any point during or after the investigation, or during a hearing into the complaint, if,

"(a) he or she is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature;

"(b) the police officer is given an opportunity to reply, orally or in writing; and

"(c) the complainant and police officer consent to resolving the matter informally."

I take notice of the government amendment which is part of the collection of filed amendments, being number 71, and note that it is, in the largest part, consistent with this one in that it requires consent — no quarrel with that — and it requires here in contrast — you'll recall the conversation yesterday about whether the serious issue was subjective or objective. Here the chief of police is given the responsibility of determining that the misconduct or unsatisfactory work performance was not of a serious nature, and that was part of the debate yesterday.

But the crucial difference between this and the government motion is that the police officer is given an opportunity to reply orally or in writing. The government

motion, which is motion 71, doesn't give the police officer that opportunity. In other words, the chief of police makes a determination without giving the police officer whose conduct is being complained of a chance to refute — and again, by and large, it would be findings of fact. I think that's an important role.

Notwithstanding that an informal resolution will carry with it little opprobrium for the complainant of a police officer, the fact is it's still there, it's still going to be a matter of record, and you can't deny it, you can't wish it away. It's going to linger somewhere in a police officer's personnel folder or in the minds of his or her supervisors or management in a police detachment.

It's imperative that a police officer be given a chance, as the subject matter of a complaint, to dispute or refute findings of fact made by a chief of police, even in the instance of an informal resolution. As I say, that's the one crucial area where this amendment is not in accord with the government amendment. I think it's a very important one. Mr Wood is a lawyer. He'd understand things like natural justice. It goes very much to the issue of natural justice that the police officer whose conduct is complained of be given a chance to refute the initial finding of fact by a chief of police which leads to even an informal resolution. I think it's important for there to be that element of justice even in informal resolutions. You can't expect a complained-of-police officer to throw in the towel and roll over just because it's an informal resolution. There's still going to be a mark against that police officer, no two ways about it.

1610

**Mr Ramsay:** This motion also refers to "unsatisfactory work performance" and it still is a concern for me in that if it's not defined, there's no reference to the standards and statutes that the parliamentary assistant refers to. I'm just wondering if this is really legal. You're saying that there are some set provisions somewhere in standards and statutes in the operation of police departments that lay out what is unsatisfactory work performance, so there is a definite reference that this is leading to?

**Mr Bob Wood:** I can't really add to what I said before. That's how such a standard is determined, statutorily and by practice.

**Mr Ramsay:** So these are clear-cut?

**Mr Bob Wood:** I wouldn't want to say that. They are certainly open to argument by lawyers.

**Mr Ramsay:** That's exactly why I am asking these questions, because what I think is going to happen here is that we're going to be employing a lot of lawyers in trying to define, when these complaints come up, especially if they are initiated by a chief, what is unsatisfactory work performance. That's why I am concerned we don't have some clear-cut definition so that we could save everybody a lot of trouble and expense.

**Mr Bob Wood:** That definition will ultimately flow from what the civilian commission does by establishing these definitions.

**Mr Ramsay:** So what you're saying is that through trial and error we will set some precedents?

**Mr Bob Wood:** No, I'm saying it'll be set by the supervisory body, which is the civilian commission.



**Mr Ramsay:** Oh, I see. So these standards are yet to be set but they will be by this commission.

**Mr Bob Wood:** The Supreme Court is not final because it's right; it's right because it's final. That's really what the civilian commission does. Ultimately, I want to speak to Mr Kormos —

**Mr Kormos:** Mr Wood has opened up a Pandora's box here now because he speaks about — maybe I'm wrong, have misheard him — unsatisfactory work performance being determined by management, by way of definition. Am I correct in that regard?

**Mr Bob Wood:** No. Ultimately this will be determined by the civilian commission, who have the final right of appeal in these matters.

**Mr Kormos:** By gosh, I was just driving up from Welland this morning listening to some criticism of some of the national political leaders — people like Charest and Preston Manning, who were being criticized quite frankly — and reference was made to the throwaway comment made by I believe former Premier Bourassa, who said, "Legislate distinct society as part of the Constitution and then let the court decide what it means." There was great criticism of that proposition because that's not what legislation is all about. You don't just throw out words and then throw it to the whimsy of a court at any given point in time in the court's history.

I'm very concerned now. As you know, it's important, especially now, that Hansards reflect what the government's intention is, because those are increasingly referred to. I suppose the question to be put, although we're not at that point yet, but Mr Ramsay having raised it and you having, as I say, opened this Pandora's box in a most interesting way, is, what is the government's intention by usage of the language "unsatisfactory work performance"?

We can't be dancing in the fog here. Surely this government has some sort of agenda. Legislative amendments as substantive as this one is — this isn't a little tinkering with language, you're adding a whole new bit of code of conduct here into the hopper. What the heck does the government have in mind when it speaks of unsatisfactory work performance?

**Mr Bob Wood:** Exactly what I said earlier.

**Mr Kormos:** Perhaps you could help me — I was reading some of the amendments — by reminding me what it was exactly that you said earlier.

**Mr Bob Wood:** I said that it was what was found within the statutory definition or the practice.

**Mr Kormos:** Now my problem is that there is no statutory definition?

**Mr Bob Wood:** There are quite a number of statutory definitions.

**Mr Kormos:** Of unsatisfactory work performance?

**Mr Bob Wood:** There are indeed. There are quite a number of them within the various statute laws.

**Mr Kormos:** As they relate to police officers?

**Mr Bob Wood:** Yes.

**Mr Kormos:** Perhaps you could refer us to some of them, because some of us don't have the background and expertise that you do and we'd be interested in taking a look at some of this stuff.

**Mr Bob Wood:** If you review this act and the other acts that pertain to police services, you'll find them.

**Mr Kormos:** The other acts that pertain to police services?

**Mr Bob Wood:** Yes.

**Mr Kormos:** To wit?

**Mr Bob Wood:** Take a look at the RSOs and you'll find them.

**Mr Kormos:** No, no, the other acts. Come on, Mr Wood, if you're talking about other acts, we should know what they are.

**Mr Bob Wood:** Take a look at the RSOs.

**Mr Kormos:** Fine, Mr Wood. Call the vote, Chair.

**The Vice-Chair:** All those in favour of this motion?

**Mr Kormos:** A 20-minute recess as per standing orders.

**The Vice-Chair:** Okay. We'll resume in approximately 20 minutes then.

*The committee recessed from 1616 to 1640.*

**The Chair (Mr Gerry Martiniuk):** There is a quorum present. We'll now have a continuation. We're still discussing item 70.

**Mr Bob Wood:** No, the vote's been called.

**The Chair:** Oh, I'm sorry. Yes, the vote had been called.

**Mr Kormos:** Recorded vote.

#### Ayes

Crozier, Kormos, Ramsay.

#### Nays

Boushy, Flaherty, Rollins, Ross, Bob Wood, Young.

**The Chair:** The motion fails. We are now proceeding with item 71.

**Mr Bob Wood:** I move that subsection 63(12) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Informal resolution if conduct not serious

"(12) If, at the conclusion of the investigation and on review of the written report submitted to him or her, the chief of police is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the chief of police may resolve the matter informally without holding a hearing, if the police officer and the complainant consent to the proposed resolution."

This amendment clarifies that the informal resolution requires the consent of the subject police officer and the complainant.

**Mr Ramsay:** What are the statutes that outline what the misconduct of a police officer is?

**Mr Bob Wood:** That flows primarily from the Police Services Act. There may be some other that would assist in the definition of misconduct. It flows primarily from the Police Services Act and of course this bill.

**Mr Ramsay:** Is there a similar definition somewhere of unsatisfactory work performance?

**Mr Bob Wood:** No, I think the definition flows from the statute law and from practice, and of course regulations made under the statute.

**Mr Ramsay:** What do you mean by "from statute law"? You're saying somewhere in law —

**Mr Bob Wood:** No. Statute law, you understand, is what the Legislature has passed or the federal Parliament has passed. That's statute law.

**Mr Ramsay:** All right. What are the references then? You're saying there is a definition in statute law.

**Mr Bob Wood:** No. What I'm saying is, in order to define misconduct or unsatisfactory work performance you have to look to the statute law, regulations made under the statute law and practices. Those are the three areas where you'd look to obtain the definition.

**Mr Ramsay:** Wouldn't a police department have collected that together? How does a police officer know what is unsatisfactory work performance? Has somebody collected this, brought this together in some sort of manual or standard of procedure, or something? Because what we're talking about here is, how does a police officer know what unsatisfactory work performance is?

**Mr Bob Wood:** The answer is ultimately that it flows from what the civilian commission ultimately says it is.

**Mr Ramsay:** What will initiate that?

**Mr Bob Wood:** This process and any other processes permitted by law.

**Mr Ramsay:** In other words, as I said before, unsatisfactory work performance will be developed through precedent in that a chief will for some reason make a complaint against an officer because she is not, in his view, performing satisfactorily. I presume that if there's a dispute about this, if it's not clear-cut, there's going to be a test, there's going to be a challenge. Wouldn't it be cheaper and simpler, more effective and efficient, to define this somewhere in our law so that all parties would understand what this is and we wouldn't be getting into a whole new area of jurisprudence?

**Mr Bob Wood:** I think it's effectively impossible to do because any profession is dynamic and conditions change. You really have to have some version of the system we are proposing, where you have a body that makes decisions on these matters.

**Mr Ramsay:** I take it that this is a new reference to this, that the original Police Services Act does not speak of unsatisfactory work performance?

**Mr Bob Wood:** That is correct.

**Mr Ramsay:** But I take it that it does speak to misconduct.

**Mr Bob Wood:** That's correct as well.

**Mr Ramsay:** Where does this come from? What is driving this? What is generating this in this act, that where it wasn't necessary before it's now necessary? I feel quite satisfied that we have highly disciplined, well-operated police forces right across the province. What has initiated this?

**Mr Bob Wood:** You can have unsatisfactory work performance that may not be actual misconduct which would attract discipline.

**Mr Ramsay:** Such as?

**Mr Bob Wood:** Discipline should apply to unsatisfactory work performance. We're trying to achieve the highest level of police services possible, and this is one mechanism, among a number, that we're trying to achieve that through.

**Mr Ramsay:** But haven't you introduced a penalty for behaviour that you haven't given definition to?

**Mr Bob Wood:** In my opinion, the definition can't be statutory. I think it has to be what I described earlier.

**Mr Ramsay:** In regulation.

**Mr Bob Wood:** No. I'm saying you have a combination of statute law, regulation and the actual practices. Any profession is dynamic; conditions change.

**Mr Ramsay:** A combination of all that?

**Mr Bob Wood:** That's right, that's where the definition comes from.

**Mr Ramsay:** It would seem to me that is not a very secure and stable workplace to be in, if you don't know the rules of the game.

**Mr Bob Wood:** It wouldn't be if you didn't have a body that can set — I told you about the Supreme Court before, and that's the case. Some of these things you can look at and you can't say objectively what the right answer is. If you have a body that says, "This is the answer," that's how it's done. That's how jurisprudence has been done for some hundreds of years, ever since they've had appeal courts. Then you get consistency.

**Mr Ramsay:** This is going to cost time and money.

**Mr Bob Wood:** Depending on how many disputes arise, it could, but it will be time and money well spent if we get a higher standard of policing, which I think we will.

**Mr Ramsay:** Have you done any studies to anticipate the number of challenges you might receive with this?

**Mr Bob Wood:** It's effectively impossible to anticipate. We think there's a good relationship between the police officers and the chiefs, so we think there will be relatively few. We think there's a fairly decent community of view among all in the police community as to what needs to be done. There are going to be a few points on which there isn't, which we have a mechanism to resolve. I would be speculating, which I don't like to do, but I'm optimistic that there's going to be a fairly wide consensus as to what constitutes proper conduct.

**Mr Ramsay:** I would agree with you that up to the present time it is probably the case that there has been a pretty sound relationship between officers, the full command in a force, and the chief. But today, as you know, there are new pressures being placed upon municipalities and therefore the municipal police forces. I think the concern is that a chief now will be under new challenges and new pressures from his or her boss, which is the municipal council, through them and the local police commission, to, for instance, raise revenues.

The concern the police officers have is that through that pressure officers are going to be accused of unsatisfactory work performance for something as benign as maybe not writing out as many parking tickets as they should in a month. That's the concern the police associations have brought to this committee. I think it's going to create a great cost and potentially could start to fill up the court system.

**Mr Bob Wood:** I think it's a system that will work well. The municipalities have said for some time that they're ready for more responsibility, and we have given them that, but we haven't given them, remember, a blank cheque. We still appoint a significant number of the



police services board members and the whole system is supervised by the provincial civilian commission. To the extent that we find there are problems, there are means of resolving these problems in the bill. I think the municipalities by and large will do a very good job of this. However, to the extent that they don't, there are controls.

**Mr Kormos:** First of all, why did you delete the requirement that the police officer have an opportunity to reply to the determination by the chief of police?

**Mr Bob Wood:** We think when you get into an informal procedure, it should be as informal as possible. We see the control being the consent of the two parties, as opposed to control over the actual procedure. The short answer is, to do that would be to excessively formalize what should be an informal procedure.

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**Mr Kormos:** But there's a requirement that there be a determination by the chief that there was misconduct or unsatisfactory work performance. Your bill as it originally stood created a series of events: that the chief make that determination and that he determine that it was not of a serious nature, such that it falls into the realm of things that can be dealt with informally.

I've got to tell you, I think all of us agree with the matter of consent, but before you even reach the stage of inquiring of the complainant and the police officer whether they consent to an informal disposition, there's a determination of misconduct or unsatisfactory work performance. In the original bill, the police officer who is the subject matter of the determination has an opportunity to respond to that such that he or she can point out errors or can refute the whole nine yards. You've omitted that opportunity for the subject of a complaint to refute the findings made by the chief of police. It seems to me, as I spoke earlier, with respect to informal disposition, at the end of the day there's still a record, be it a record by way of memory or a record by way of notation or the history of somebody's relationship with their management in a police department.

An informal resolution still carries with it some very subtle consequences for an offending police officer, because before you can have an informal resolution you've got to have an offence, you've got to have misconduct or unsatisfactory work performance. I'm hard-pressed to understand why in the first instance you included, after giving the police officer an opportunity to reply — and you talk informal. It says "orally." How much more informal could you want? You give the cop a chance to say, "No, you're wrong in conclusion A, conclusion B or conclusion C." The chief of police may or may not agree with that police officer, but you give the cop a chance to say, "No, these facts are not correct and this is where they're wrong," such that a chief of police then may feel capable of reviewing them and saying, "You're right, there's not even a need for an informal resolution here because I'm going to find, based on your response to my findings, that there was no misconduct or unsatisfactory work performance."

You want to talk about eliminating red tape? That's how you eliminate red tape. That way you clear the board, and the cop doesn't spend the rest of his or her career with that blemish on their record. Why, in God's

name, would you have deleted "after giving the police officer an opportunity to reply orally or in writing"? Surely your understanding of justice should require that somebody have an opportunity to respond to the charges made against him, and effectively that's what the bill did in its original interpretation, subsection (12). Do you really hold to your initial argument that this was an effort to eliminate red tape when the opportunity was there to respond orally as well as in writing?

**Mr Bob Wood:** I think the more you formalize an informal procedure, the less you have an informal procedure. The control on this, and I think it's an effective control, is the requirement of consent. That's how I think you control the concerns you've raised.

**Mr Kormos:** In some respects it was a little premature, but obviously not, because it isn't until we're with section 34 — you see, the problem is we're going to have a problem with all of section 34 now, because section 75, which is amended by section 34, is, as you know, the craw sticking in people's throats. You suggest that it's the commission that will determine. My reading of section 75 is that it's the discretion of the commission, quite rightly, or of the chief of police or of the board. Any one of those entities has the discretion to determine what constitutes unsatisfactory work performance.

You're a lawyer, Mr Wood. You know that discretion is a pretty broad empowerment.

**Mr Bob Wood:** I don't want to interrupt you, but you might be interested in this. We propose to remove section 75 from the bill. Have you had an opportunity to read our amendments?

**Mr Kormos:** No, I haven't read them. I'm reading them one at a time as they come, just like you're reading mine.

**Mr Bob Wood:** Without anticipating your position, we are not proposing to proceed with section 75 as in the draft bill.

**Mr Kormos:** Well, you'd better refer us to that amendment because we want to talk about this in context. We're concerned about the reference to "unsatisfactory work performance" and what it means in these earlier amendments. Give us your amendment number that amends section 75.

**Mr Bob Wood:** You will have that in 30 seconds.

**Mr Kormos:** Oh, it could be a lot longer than that.

**The Chair:** It's 101.

**Mr Kormos:** Thank you, Chair.

**Mr Bob Wood:** I'm sorry, 100 is the same as 101, which actually is your motion, which I'm pleased to say we find merit in and we're going to support.

**Mr Kormos:** Where then is the source of your comment that it's for the commission to determine unsatisfactory work performance? Where in the bill after the deletion of 75 is it for the commission to determine unsatisfactory work performance?

**Mr Bob Wood:** The civilian commission is the body of appeal for all of us.

**Mr Kormos:** Section 75 is effectively the genesis of "unsatisfactory work performance." There you have some sort of sourcing for the definitive "unsatisfactory work performance," and you're suggesting now that "unsatis-

factory work performance" will remain in the act even with the deletion of 75?

**Mr Bob Wood:** That's precisely right. That's correct. It's in, as indicated in the —

**Mr Kormos:** But this is the proverbial orphan.

**Mr Bob Wood:** I don't think anything in the statute is an orphan. It's all significant.

**Mr Kormos:** A bastard child perhaps is more appropriate.

**Mr Bob Wood:** I would defer to the member from Welland.

**Mr Kormos:** Then where does "unsatisfactory work performance" come from? You're introducing it now. You're deleting 75 but you're persisting in referring to it in all your corresponding sections. Obviously the interest here is in seeing the reference to it deleted from all the corresponding sections. As I say, we've got this little bastard child roaming around the bill and you're saying that ultimately — it's even vaguer than the discretionary thing on the part of a chief of police.

**Mr Bob Wood:** I don't think it's vaguer; I think it's more defined. What the civilian commission is going to do is give definition to it.

**Mr Kormos:** Where does the civilian commission get the power to define it?

**Mr Bob Wood:** They're the court of appeal, in effect.

**Mr Kormos:** But, you see, section 75 was necessary to give the chief of police, the police services board and the commission — granted it gives all three of them the power to determine what constitutes unsatisfactory work performance. This is where the commission derives its authority to determine unsatisfactory work performance, and it's discretionary. Take a look at "misconduct," section 73. There you've got a series of misconducts that are defined: "(f) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 132."

**Mr Bob Wood:** You are on what section?

**Mr Kormos:** I'm sorry, the act, section 73, which is at page 37 of the bill. You've got "misconduct" there, and you know some of the language that's used. It doesn't say "misconduct includes but is not restricted to"; it says this is the misconduct, bang, (a) through (i), if it's one of those things. These are all statutory definitions or they're references to statute which has definitions, "commits an offence" etc.

1700

The concern everybody has here, Mr Wood, is "unsatisfactory work performance." It's clearly not misconduct, because you're excluding it, "misconduct or unsatisfactory work performance." So you're talking about some sort of behaviour that doesn't constitute misconduct but none the less subjects a police officer to some serious consequences. What we're saying is, what do you anticipate that would be? If it isn't misconduct then it's something else. What in heaven's name could that possibly be? I think we'd like to know, cops would like to know, the public would like to know. How does the public point the finger and say, "That person violated something by virtue of unsatisfactory work performance," if even the public doesn't know what constitutes unsatisfactory work performance? That's the problem we've got.

**Mr Bob Wood:** It would be a problem if there weren't a body that can give definition to it. But there is, and that's the civilian commission.

**Mr Kormos:** But they're not empowered to create a definition.

**Mr Bob Wood:** Sure they are.

**Mr Kormos:** No, sir. They're empowered to hear appeals.

**Mr Bob Wood:** Well, that's how they create the definition.

**Mr Kormos:** No. It's up to legislators to create definitions. It's up to legislators to outline prohibited acts. Please, Mr Wood, it's not up to legislators to delegate. What you're doing is delegating the power to a commission to say: "It's helter-skelter. It's up to you. The ball's in your court. Anything you want to call 'unsatisfactory work performance' you can."

I'm increasingly concerned about what's going on here. I suppose I should put to you the proposition that was made by police officers several times during the course of submissions, their fear that "unsatisfactory work performance" will include, for instance, not meeting ticket quotas. As the delegate of the sponsor of the bill, on behalf of Mr Runciman, did you intend not meeting ticket quotas to be covered by "unsatisfactory work performance"?

**Mr Bob Wood:** I was not aware that the work of the police involved meeting quotas.

**Mr Kormos:** That's the problem of not being with the committee from its beginning, because police officers talked about quotas from day one of the committee. I know Mr Ramsay recalls that. They very specifically talked about ticket quotas and their concern, for example, that "unsatisfactory work performance" could mean not meeting a ticket quota. We have a problem here. You're the parliamentary assistant and I don't know whether you're denying the existence of quota systems for cops or whether you're genuinely saying you're not aware of them, although they might exist, in your mind. I'm concerned about it, police officers are, and we've reached a real impasse here if we can't even talk in practical, hard terms about whether "unsatisfactory work performance" is going to be used against a police officer who fails, for whatever reason, to meet a ticket quota — a speeding ticket quota, a seatbelt ticket quota, a parking ticket quota. It's a heck of a use of police officers' time with the restricted budgets they have to work with.

Does the government anticipate or does it intend for this "unsatisfactory work performance" to be used to discipline police officers or respond to police officers who don't meet ticket quotas?

**Mr Bob Wood:** I wasn't aware that ticket quotas were required.

**Mr Kormos:** The question now is, in enacting this new misconduct — but it's not really misconduct or else you would have called it misconduct — this new, vague thing, is the government intending that be a response to a police officer failing to meet a quota?

**Mr Bob Wood:** It's our intention that the civilian commission is going to determine what is indeed unsatisfactory work performance. It's not the intention of the government to attempt to define that in the statute, in the



same way as, for 205 years, this Legislature has delegated to the courts to develop the common law and equity.

**Mr Kormos:** No, no, please. The Legislature has never delegated common law to the courts. The courts were seized with that before legislatures even existed, before legislatures even legislated. That's why there is a common law.

**Mr Bob Wood:** Quite the contrary. One of the first acts of this Legislature was to adopt the law of England as it existed in 1792. It's here because of what this Legislature said, not because the courts took it over.

**Mr Kormos:** Which doesn't create —

**The Chair:** Gentlemen, I think you're getting off the point. Let's get back to the statute.

**Mr Kormos:** I might have to start questioning this person about where his — well, I won't question that, not in this forum.

**Mr Ramsay:** The University of Miami?

**Mr Bob Wood:** Feel free to read the statutes of 1792.

**Mr Kormos:** Honduras, perhaps.

**Mr Bob Wood:** Read the 1792 Ontario statutes.

**Mr Kormos:** Let's get back to "unsatisfactory work performance." If you're creating this weird little thing, this little chimera here, and you're saying it's up to the commission to define it, let's try this little angle, Solicitor. What problems — and Mr Ramsay asked you this; I'll try to ask it again, probably in a far less effective way — is the government trying to address by creating this undefined "unsatisfactory work performance"? What's the problem out there that's being confronted?

**Mr Bob Wood:** What we are attempting to do is create the highest quality policing possible in Ontario. This is one of the mechanisms that we think is appropriate to achieve that.

**Mr Kormos:** Do we not have the highest quality of police possible now?

**Mr Bob Wood:** I think any quality of any kind of work is possible to improve.

**Mr Kormos:** So you want to improve the quality of policing. What is it? Once again, what's the problem? What's not up to snuff with our cops that the government is trying to improve? I'm not going to try to start putting ideas in your mind. That would be like putting the quicksilver back into the thermometer, or whatever that stuff is.

**Mr Bob Wood:** Mercury.

**Mr Kormos:** The mercury back into the thermometer. What have we got to do here? Have we got to get faster cops, stronger cops? I don't know. What are we trying to achieve to make things better than they already are?

**Mr Bob Wood:** I think any profession that's dynamic — and our police profession has to be dynamic. They have got to take a look at practices throughout the world, they've got to take a look at their own ideas and they've got to create the best possible policing we can achieve in Ontario. One means of doing it is the statute before you.

**Mr Kormos:** I've seen New York City cops and I'll stack ours up against those guys any day of the week. Where are the problems? Where are the problem areas? Where are the holes? Help us.

**The Chair:** Excuse me, there's no limit on argument, but you've asked the same question four times and

you've received the same answer. Is this cross-examination? Is this proper? I'd like your opinion.

**Mr Kormos:** I think it's entirely proper but it's futile.

**The Chair:** But if it's the same answer, Mr Kormos, I don't know what answer you — why don't you tell us what you want to hear?

**Mr Kormos:** As I say, it's like trying to put the mercury back into the thermometer. I don't want to put ideas into his head. It's a difficult endeavour.

**The Chair:** Whether the answer is satisfactory or not is not my jurisdiction to review, but you are asking the same question. There are no time limits and I am just pointing that out to you.

**Mr Kormos:** Thank you kindly, Chair.

**The Chair:** Possibly you'd like to hear from Mr Ramsay and then you can come back.

**Mr Kormos:** I'd love to hear from Mr Ramsay, and I'll be back.

**Mr Ramsay:** I'd like to go through the complaint process, going through the appropriate sections of the bill. With you now deleting this section that states that the chief and the board, as the case may be, can no longer determine whether an issue is unsatisfactory work performance, I don't understand where the authority is in the bill to proceed with this.

Starting from the beginning, 56(2), "The chief of police may also make a complaint under this part about the conduct of a police officer." Then under section 58, "The chief of police shall determine whether a complaint is about the policies of or services...or the conduct of a police officer," so the chief determines that.

1710

Then there's the section we just dealt with in amendment, which is subsection 63(12), in dealing with the informal resolution: "If, at the conclusion of the investigation and on review of the report submitted to him or her, if any, the chief of police is of the opinion that there was misconduct or" again "unsatisfactory work performance but that it was not of a serious nature, he or she may resolve the matter informally...." Then you go on towards the end of the bill and delete the power of the chief, the board or the commission, as the case may be, the discretion to determine whether any conduct constitutes unsatisfactory work performance.

I don't know where this now comes from. If you delete that section 75 — really you're doing what we would like, except you still think it's there — you are deleting any complaint that will be based upon unsatisfactory work performance. Is that your intention?

**Mr Bob Wood:** I think what you've just said is not correct. The authority flows from subsections 63(8) and (12).

**Mr Ramsay:** "Hearing to be held"?

**Mr Bob Wood:** That's where the authority comes with respect to unsatisfactory work performance. It's a matter of statutory interpretation but it's clearly in the bill. There's no doubt about it. The bill does not lack provision.

**Mr Ramsay:** So what does 75 refer to? What was the original intent of section 75?

**Mr Bob Wood:** Given the amendments, it's basically become redundant. We're introducing unsatisfactory work

performance through subsections 63(8) and (12) rather than through a separate section. We're not removing the concept of unsatisfactory work performance.

**The Chair:** Except as far as the board goes. The board is removed.

**Mr Bob Wood:** It flows from those two sections; that's right.

**Mr Ramsay:** Section 63, as the Chair has rightly pointed out, refers to the chief.

**Mr Bob Wood:** But we have not removed that concept from the act. That's still very much in the act.

**Mr Ramsay:** Since you're going to remove section 75, which allows the chief, the board or the commission, as the case may be, the discretion to determine whether any conduct constitutes unsatisfactory work performance, what authority does the board have to hear a case involving unsatisfactory work performance?

**Mr Bob Wood:** You mean the civilian commission?

**Mr Ramsay:** Yes.

**Mr Bob Wood:** Because of the right of appeal to it.

**Mr Ramsay:** But how would they determine? The chief says, "This is a case of unsatisfactory work performance." Here you're saying the chief of police, the board or the commission, when you take section 75 out, would no longer have the discretion to determine whether this was such conduct.

**Mr Bob Wood:** It's determined in the first instance by the police chief, but his policy is necessarily determined by the appeal body, which is the civilian commission, so the definition ultimately is going to flow from the civilian commission and all the chiefs have to follow the policy set out by the civilian commission. You have to look at the act as a whole to see the scheme, and that's the scheme, in essence.

**Mr Ramsay:** The scheme is to set up a system that will over the years, in essence, develop the definition of unsatisfactory work performance.

**Mr Bob Wood:** Correct.

**Mr Ramsay:** We're not talking about our law here, which is broad, which is infinite, which is flexible; we're talking about a set of behaviours that we require of our police officials in the province. You've spelled them out as far as misconduct is concerned in section 73, but you failed to set out the behaviours that are unacceptable in regard to unsatisfactory work performance. We're going to take years of litigation and expense and appeals to somehow define over the next few years what constitutes unsatisfactory work performance. I just don't know why you don't just list it down.

**Mr Bob Wood:** Because in my opinion it's effectively incapable of statutory definition. I think you have to do it the way I described earlier. Any profession is dynamic. Things change. Even if you could define it today, in three years it might be outmoded. It's very difficult to define in the first place.

**Mr Ramsay:** Let me ask you: Could unsatisfactory work performance be different in the Kenora police force than it might be in the Toronto police force?

**Mr Bob Wood:** If conditions were different, it might well, yes. Perhaps what might be acceptable in Kenora might be unacceptable in Toronto. It's quite possible.

**Mr Crozier:** I like that idea about looking at the act as a whole and the scheme. The only thing is it leads me to think about who the schemers were, or schemee, who put in "unsatisfactory work performance." It just didn't drop out of the sky. Somebody must have for some reason put it there.

That having been said, Mr Ramsay asked one of the questions I wanted to ask, and that is, can unsatisfactory work performance be different under two different chiefs? If that's so, because of conditions or whatever, can misconduct be different in Kenora than in the city of Toronto?

**Mr Bob Wood:** I'd like to address the first question. I think what you'll find is that where conditions are different, something that might be misconduct in one area might not be in another. It's not because different chiefs implement different policies. It's because of differences in conditions that you'll see a difference of result from the same conduct.

**Mr Crozier:** So if misconduct can be different in two different places, more than one place, because conditions are different, why —

**Mr Bob Wood:** No, unsatisfactory work performance.

**Mr Crozier:** No, you said "misconduct." I think the record will show you said "misconduct."

**The Chair:** I think he was mistaken.

**Mr Bob Wood:** If I did say that, I was attempting to say unsatisfactory work performance. If I said that, I apologize. I was attempting to address the issue of unsatisfactory work performance.

**Mr Crozier:** So can misconduct be different?

**Mr Bob Wood:** I think it's much more clearly defined.

**Mr Crozier:** So what you're saying is, unsatisfactory work performance can't be clearly defined.

**Mr Bob Wood:** I don't think so.

**Mr Crozier:** To me —

**Mr Bob Wood:** I think it can be, but I don't think it can be clearly defined by statute. I think it can be clearly defined by the civilian commission.

**Mr Crozier:** So if I simply don't agree with my boss, who is the chief, then the next step is to take it to the board. It can be appealed to the board, can it, the chief's decision?

**Mr Bob Wood:** The civilian commission? Yes.

**Mr Crozier:** So if I just simply disagree with my boss, I'm going to appeal it to the commission. Is that correct?

**Mr Bob Wood:** Well —

**Mr Crozier:** Don't you think, Mr Wood, there could be some basic principles in unsatisfactory work performance, both inclusive and exclusive? In other words: "This doesn't apply"; "This isn't done satisfactorily"? Don't you think there could be some broad, basic principles like there is with misconduct?

**Mr Bob Wood:** I would say that you'll find more practices than principles. I think there are all kinds of basic practices and detailed practices, and indeed certain principles as well, but I think you'll find the more useful, shall we say, application of this problem comes from looking at practices rather than principles.

**Mr Crozier:** That really compounds it then, because we have this misconduct, which is very clearly defined here and applies to all police forces. Then we say, "But



we've got the unsatisfactory work performance, which may or may not be of a serious nature, that applies to all the police services." That really creates an awful lot of questions out there, but we'll just have to work our way through it.

**Mr Bob Wood:** I think there may be fewer questions than you may anticipate. I think you'll find there's a reasonable consensus within the police community as to what good practices are. There may be a lot less controversy than some may anticipate.

**Mr Crozier:** Why then, if there are very few — and I suspect you're right — did it have to be put in there? Who put it there? Who raised the idea, and somebody else said, "Yeah, that's good"? Was it the minister? Was it somebody on staff? To me, there had to be a reason. It just didn't drop out of the sky.

1720

**Mr Bob Wood:** The reason is —

**Mr Crozier:** I was just going to say I sincerely would like to understand that so I could, in all conscience, vote on this motion the way it should be and in an informed way.

**Mr Bob Wood:** Let me put it to you this way: If you made a complaint about a police officer's conduct and they said, "Well, it's not satisfactory work performance but it isn't misconduct so we can't do anything," would you as a citizen be satisfied with that result?

**Mr Crozier:** Well, I don't know, unless I had some way to define it. That's all I'm asking you to do. It's your bill.

**Mr Bob Wood:** And we do. That's quite right.

**Mr Crozier:** So define it. If I knew ahead of time that that wasn't going to be considered, that it wasn't unsatisfactory work performance, okay, I guess I'd have to live with that.

**Mr Bob Wood:** What I'm inviting you and all members of the committee to consider is, if you as a citizen complained and the answer was, "It is not misconduct; therefore we can't do anything about it, but we agree that this officer engaged in unsatisfactory work performance in relation to the incident that you're complaining of," would you be satisfied? You can consider that. I'm not asking you to answer it now.

**Mr Crozier:** Yes. Sure.

**Mr Bob Wood:** Our point is that this is another way of achieving a higher quality of policing. That's why it's there, to answer your question in short. We think — having asked you the question, I'll give you our answer. Our answer is that we don't think a citizen would be satisfied if they got that answer. Under this law, they're not going to get that answer. If the answer is, it's not misconduct but it is unsatisfactory work performance, something can then be done about it.

**Mr Crozier:** So has it worked up until now? Again I refer back to when I was involved municipally and was on the police services board. Granted, I related it to the commission, how anybody on the commission should be able to get the same kind of information, but my point being that when I was on the board, I don't recall just casually in the street or formally through the police services board having a complainant say, "Well, I agree it's

not misconduct, but gee, I wish you had unsatisfactory work performance in there so then something could be done."

I assume something was done. If it wasn't misconduct, I assume by some process in the quasi-military fashion of the police service that something was done. But I just think this opens up — it was referred to as a Pandora's box — a can of worms.

One of those worms, whether anybody at this table likes to admit it or not — we can all skirt around it and say, "I've never heard of that before; I didn't know" — is quotas. Quotas have been talked about for, God, ever since I can remember; I guess maybe ever since I got my driver's licence. I suggest that if they were talked about that much, they must have existed. And if this then is one of those things, one of those worms that can be raised, we're in for a grand old time.

**Mr Bob Wood:** Let me touch on one point. When you look at the amount of work they do, the complaints about police are very, very small indeed. However, we do have to address the fact that in any human body there are going to be a certain number of people whose performance is not satisfactory for one reason or another, and that's really what we're looking at here.

The police have done, in my opinion, an excellent job. The fact of the matter is, their work will be enhanced by an effective complaints process, which is what we think we have here. We think unsatisfactory work performance is a significant part of that. If a member of the public encounters such a thing, they should have a remedy. We think it's a poor answer to say to them, "Well, it's not misconduct but it is unsatisfactory work performance and we can't do anything about it under this system." We think that's a poor answer to give to the public.

**Mr Crozier:** Okay. Well, somehow it has worked up until now. I just think that putting it in writing even — I'd even go as far as to say that — putting those three words in writing, even though they may have been implied for years, is going to cause no end to the trouble. I don't think the public is even going to know that it goes on. It's just going to cost them a bucketful of money.

**Mr Bob Wood:** I think you're going to be pleasantly surprised by how this works.

**Mr Crozier:** I certainly hope I am. I'm with you: I hope I am. But if I were a gambling man — and you, Mr Wood, and others here know I'm not — I would bet on it.

**Mr Kormos:** Having listened carefully to the parliamentary assistant, I'm as concerned now as I was earlier. He speaks of the prospect of a citizen complaint about some kind of behaviour that isn't misconduct and, since it doesn't fall within 73, the misconduct definitions, can't be addressed. I suppose that I'm compelled to ask for an instance in our history of policing in the province where there is behaviour that was considered worthy of addressing but couldn't be addressed because it didn't constitute misconduct. That's number one.

Number two is the fact that police officers deserve, have a right in my view, as any worker does, to know what the guidelines are, to know what the rules are. Mr Wood is talking about a scenario wherein if all of a sudden when he crossed the boundary line on 42nd Street

into Times Square there, you know, with all the neon and the shows and so on —

**Mr Ramsay:** Stop there.

**Mr Kormos:** As if Mr Wood is walking down 42nd Street from 8th Avenue, and all of a sudden, as soon as he crossed Broadway, he entered a brave new world where the law wasn't spelled out and where it simply said, "Any behaviour unworthy of residents of this zone shall be punished." Nor would any fairminded person think that that would at all be reasonable, because it could constitute — and he already indicated it could constitute — different things in different locations. I mean, what gives? Mr Wood indicates that unsatisfactory work performance could be different in Kenora than it is in Niagara. Well, that's nuts.

**Mr Bob Wood:** If conditions were different.

**Mr Kormos:** That's nuts. I say that this reference to unsatisfactory work performance is a very anti-police element of this bill.

Now, Mr Wood, all of us here know that these amendments and these bills don't just sort of appear in the morning like mushrooms around the base of the maple tree out in the front yard. They are the result of policy discussions, and the policy discussions are based on input from various sources, and when you come up with a phrase like "unsatisfactory work performance," some little minion somewhere came up with that phrase as compared to another phrase. I mean, they could have just said, "Naughty police officers will be dealt with by the chief of police." They didn't say that. They said "unsatisfactory work performance."

Mr Crozier asked you about this, Mr Ramsay asked you about this, and I'm putting it to you again. We deserve to know where this came from. Where are the roots of this? You spoke, you sort of dug into your bag there, and you came up with a one-eared rabbit, and that was the citizen complaint but it's not misconduct. Well, you made it up. You made it up, Mr Wood, because you haven't got a single example of a citizen complaint that was in any way serious or had any legitimacy or any validity but that couldn't be dealt with because it didn't constitute misconduct. You made it up. Don't do that, please. That's not proper.

I quite frankly am concerned enough about the fabrications of justifications that I can tell you these amendments won't be dealt with today. I think that's just as well, because then we can come back next week and maybe get some clear and honest answers about where "unsatisfactory work performance" came from, who requested it and what were the policy considerations in support of it. All of us know — don't BS us — that these things aren't done whimsically. Every once in a while something whimsical slips through, but this wasn't whimsical and it has been addressed since day one. You've had months and months to consider the criticisms of it and the concern about it.

1730

I think most of us, if not all of us, got a letter. You'll recall Roy Rawluk, who is with the Metro Toronto Police, a police constable. He made a submission to the committee and he had, and still does I am sure, some interesting — he prefaced his letter by quoting Kennedy.

Now, Kennedy wasn't the greatest source of quotes; a lot of his stuff was written for him. That's what happens when you're rich, you get people to write that stuff for you. But that's okay because he might as well have said it.

Dante once said that the hottest places in hell are reserved for those who, in a period of moral crisis, maintain their neutrality. Mr Rawluk, like a whole lot of people, has concern — and here you talk about a police officer, a responsible one. You'll recall his submission, an extremely thoughtful one and one that was very analytical.

Surely the cry for "unsatisfactory work performance" doesn't come from police. Mr Rawluk wouldn't suggest that, none of the police officers we met during the course of these committee hearings have suggested that and none of us has received a single telephone call, a bit of correspondence, anything from any cop in the province suggesting that they need to have unsatisfactory work performance included in their work relationship as a disciplinary offence to help make them better cops. That's remarkable. Who would have thought that would have come from police officers? "Oh, that's right, Mr Runciman and Mr Wood. Please include 'unsatisfactory work performance' in your new bill so that we can become better police because we want to catch more crooks and we want to protect more citizens." Horsefeathers.

It didn't come from police officers. To be fair, we didn't hear from a whole lot of police services boards; we heard from some members of them. No suggestion that any of them had concern; no suggestion on the part of chiefs of police that they were somehow handicapped or their hands were tied when it came to dealing with police officers.

There was no commentator, directly with the hearing process or outside of it, who suggested that the code of misconduct, section 73, was in itself inadequate for the purpose of addressing disciplinary problems within any given police force, and you haven't come up with a single illustration of a need for something so vague and undefined as "unsatisfactory work performance."

This has nothing to do with the citizen complaint process and you either know it or you ought to know it. This has everything to do with the relationship between management and police officers. It has diddy-squat to do with citizen complaints. Unsatisfactory work performance has nothing to do with public conduct of a police officer that might draw concern or create a grievance in a member of the public. It has everything to do with importing some heavy-handed, new, ill-defined and omnibus, as they are, powers to management. No person working in any workplace, least of all police, deserves that type of — as I say, it's a dance in the fog because there are no definitions, there are no rules. It's Byzantine, at the very best.

Obviously, we're not going to finish the bill today. It's a shame. But I think a little hiatus would give you a chance, with the skilled help you've got, to go back to the ministry, take a look at how this bill was put together and find out for us — and look, there could well be a perfectly reasonable explanation. We'd just love to hear it. There could be something so persuasive that Mr



Ramsay and Mr Crozier and even I apologize to you for having been so difficult, for having been so obstreperous about your importation of this new workplace offence.

By gosh, I'd look forward to the chance to apologize to you for being difficult. I'd want to put it right on record. I'd want it on Hansard. I'd want it in black and white, written, so that people could be shown: "Look, Kormos apologizes for being obstreperous, for being difficult to get along with."

**Mr Ramsay:** It wouldn't be the first time.

**The Chair:** It would be the first time.

**Mr Kormos:** It would be the first time I apologized.

**The Chair:** To anybody.

**Mr Kormos:** Yes, but I'd look forward to that chance. All you've got to do is prove us wrong. All you've got to do is send us home with our tails between our legs, saying: "Oh boy, we really mucked that one up because Mr Wood was right on top of things. We didn't know it and we were critical of him. By God, there we were in committee and we were ridiculing some of his answers because they were silly. We accused him of not knowing what he was talking about, of making things up, of fabricating things." Boy, would we be shamefaced if you proved us wrong. By gosh, I'd go home for a good week, a week and a half. I wouldn't be able to show my face around here.

All it takes is an explanation as to where this came from, who wanted it, who asked for it. Jeez, we had chiefs of police. I know how these committee hearings are organized. They get woodshedded before they come here by ministry staff. They could have been tipped off. They could have been asked to make a pitch for "unsatisfactory work performance." They could have been told: "Lay it on the line and use your authority as highly regarded chiefs of police to embarrass the opposition members into coming on side with it." But you didn't.

You could have come up with a complainant, one of these citizen complainants you talk about who had such a grievance, who was so distressed by something that some police officer did somewhere in Ontario and who couldn't get any redress because it wasn't misconduct because it didn't fall within the realm of misconduct.

I am surprised that you didn't know about the concept of quotas because they were spoken to by some of the very earliest presenters; I believe, among others, some of the participants and representations from the Police Association of Ontario or various police associations of Ontario seized on this right away. These guys weren't slackers by any stretch of the imagination. They had a sense of what was going on.

Well, refute it. That's all we want to hear. We want to hear a reasonable argument in response to the concerns expressed by those people. Gosh, here it is, it's twenty minutes to 6. Nuts, we won't get finished today. But I think it's just as well, because I'm ready to come back next Monday and the Monday after that and the Monday after that. I haven't got anything booked for July or August yet, so we can do that as well.

I think a little bit of time to talk to some of the staff over there in the ministry — you've got some smart people there. They can write you a briefing note on it and then you won't be fumbling around talking about all the

other statutes: "Read the RSOs." Oh yeah, that was a good one. You won't be using lines like that. You can give us some concrete examples. I'd be very interested in that and, by gosh, that would leave me with a sufficient comfort level that we could probably carry on. But until then I'm far too uncomfortable.

1740

**The Chair:** Thank you, Mr Kormos. For the purpose of the record I must say something, because you seemed to indicate that there's something special in this bill that you disagree with that calls you to go over the one day agreed to by the House leaders. In fact, there have been three bills before the House on which you have attended and on each occasion you have done the same thing, so there's nothing special in your behaviour today, Mr Kormos. You have again breached your House leader's agreement, which is in writing, that we would spend one day on this bill, which I take it would be two half-days, and you are going over that.

**Mr Kormos:** Well, send me to bed without dessert. I'm really disheartened.

**The Chair:** I just want you to know that there's nothing special in your behaviour.

**Mr Kormos:** No, Chair. I'm not the one playing silly bugger with this committee. Bob Wood, the parliamentary assistant, is when he won't address issues that he's being confronted with, and this is far too important —

**The Chair:** Thank you, Mr Kormos. Mr Ramsay, you have the floor.

**Mr Ramsay:** I want to come back to this because this is very important. I think the parliamentary assistant started to lead us down the garden path when he asked my colleague whether we wanted the public to be told by the chief that we cannot proceed with this complaint —

**Mr Crozier:** I'm easily led.

**Mr Ramsay:** To a degree — that we cannot proceed with this complaint because it doesn't fall under the definition of misconduct. That's why, according to the parliamentary assistant, we have this undefined phrase here, "unsatisfactory work performance."

Quite frankly, my concerns with how police officers deal with the public really would have to deal with misconduct. That's what I want to protect the public from. Cops are human, like everybody else, and make mistakes, but we hold them to account for misconduct. As far as the public's concerned, that's what I also would want to hold them to account for.

This definition of "unsatisfactory work performance" has got nothing to do with public complaints, it's got to do with internal discipline of police officers by chiefs. It's got nothing to do with the public complaint process. That may not be so bad, except for the fact that in this bill you make the chief the judge and jury and executioner of the officers. That's what's wrong with having such a loosey-goosey undefined phrase as "unsatisfactory work performance," when a police officer can be hauled up on the carpet by his or her chief, accused by the chief, have it determined by the chief that it is a matter of unsatisfactory work performance and be docked a week's pay. That is wrong, and if you want to go kill the morale of police officers, like you have of firefighters through Bill 84, this is the way to do it.

I wouldn't have to apologize to the public at all if we took out "unsatisfactory work performance." I want to protect the public from any misconduct, as defined in this bill, by police officers. I'm satisfied with that. This is another matter and it's got to be removed from this bill, because this is going to slow down policing in Ontario. It's going to make it ineffective. Officers are going to be afraid of what really defines unsatisfactory work performance. We're not going to get good policing. They're going to be totally demoralized by this. Then, as these charges start to come forward, they are of course — and I support them in this — going to start to fight this, and that's going to cost all of us time and money until a body of jurisprudence is developed by the commission over time that will finally tell us what is unsatisfactory work performance.

This is bad legislation. You don't put in criteria that are undefined in a piece of legislation. This is a mess and you're dealing with not just law but an extremely important function in society, and that is the duty to protect the public through policing. That's what we're fiddling with here and this is wrong. I ask the parliamentary assistant, as my colleague has asked, to take a break and consider this matter and come back next week and see if we can work this out and find something that is satisfactory to police officers in Ontario and to law enforcement in Ontario.

**Mr Bob Wood:** Perhaps I can respond briefly to some of the concerns that have been raised. It's important to bear in mind that the police chiefs are going to outline quite specifically what they think is satisfactory work performance. This is not going to be an unknown quantity. The civilian commission's going to become involved if and when there's a disagreement as to what that might be. I think you're going to find that there's quite a wide consensus as to what satisfactory work performance is, and I rather suspect there won't be the volume of appeals to the civilian commission that some may think there are going to be.

**Mr Ramsay:** Can we deal with that point?

**Mr Bob Wood:** Certainly.

**Mr Ramsay:** Where in the act does it say that the police chief will be spelling out what in his or her view in that particular police department — it could be different in Kenora and Toronto — where is it stated that the police chief will develop that criterion for those officers under his or her command as to what is unsatisfactory work performance?

**Mr Bob Wood:** That's not set out in the act; it's merely a good management practice.

**Mr Ramsay:** You see, there's the problem again. I might be halfway satisfied if even that was in the bill. All I want to get is that police officers know what it is. If we don't define it in the bill, even if we said in the bill, as you've just stated, that police chiefs would do this, then let's make it mandatory that police chiefs have to state what this is in their police departments, so at least the men and women who are out there working on our behalf understand in their department what constitutes unsatisfactory work performance. That may be a way to help work this out.

**Mr Bob Wood:** I think it's quite unnecessary. I think the chiefs understand what good management practices are and follow them.

**Mr Ramsay:** How do the officers know?

**Mr Bob Wood:** Because the chiefs tell them.

**Mr Ramsay:** Why don't we then compel them through this legislation to make sure that is stated, so at least the police officers know the regime of rules they're working under? That's all I'm asking for.

**Mr Bob Wood:** I don't think they need to. It's an obvious good management practice.

**Mr Ramsay:** This is the fog we talked about. If you don't define it, how are police officers going to know what's required of them? That's all I'm asking.

**Mr Bob Wood:** My point to you is it's good management practice to give clear expectations to employees of what the job involves. That's what I think the police chiefs do and what they will do.

**Mr Ramsay:** But we're just hoping this is the case, and as you said, work performance might be judged differently in different locales. I might have argument with you on that, but even just accepting that and that you want to have flexibility and therefore you do not want to have this stated in legislation, nor in regulation, at least why don't we compel the chiefs to state in some sort of procedural manual at each police department what constitutes unsatisfactory work performance? At least then there would be the guidance there that our police officers could work under.

**The Chair:** On that note, Mr Ramsay, I think we've explored this. Since there are only a few minutes left, I think it would be appropriate, unless there's objection, to adjourn the continuation of clause-by-clause hearings to Monday at 3:30 pm.

*The committee adjourned at 1748.*





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**Legislative Assembly  
of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Monday 2 June 1997

**Journal  
des débats  
(Hansard)**

Lundi 2 juin 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

Police Services  
Amendment Act, 1997

Loi de 1997 modifiant la Loi  
sur les services policiers

Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 2 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 2 juin 1997

*The committee met at 1535 in committee room 228.*

POLICE SERVICES AMENDMENT ACT, 1997  
LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen, members of the committee. This is clause-by-clause consideration of An Act to renew the partnership between the province, municipalities and the police and to enhance community safety. I welcome Mr Phillips here on behalf of the opposition. We have a quorum and we are in the process of discussing item 71, which is a government motion to amend section 34 of the bill, subsection 63(12) of the Police Services Act, and I believe Mr Kormos had the floor when we last left.

**Mr Peter Kormos (Welland-Thorold):** Mr Chair, I should make it quite clear that all of us, both in the Liberal caucus and the New Democratic caucus, were incredibly concerned about Mr Wood's refusal to address this new concept of "unsatisfactory work performance," the refusal and then the effort to basically BS the committee, pursuing several directions there in his responses to what were a series of very serious questions.

You know this has been a matter of great concern for police officers who have appeared before this committee from day one. One of the stated fears was that it's going to be used to enforce a quota system, and a quota system that relates to the revenue-raising activities of police officers, specifically and obviously those offences which have the fines or the dispositions reverting back to the municipality.

Mr Wood, notwithstanding that he's the well-paid parliamentary assistant to the Solicitor General, sat mouth open saying, "Oh gosh, golly." For a guy who's this tight with Preston Manning, I thought he'd had a little more practical experience with the real world — "Oh, gosh, golly, I didn't know that police have quota systems," when in fact you've got to be from another planet. Police officers very specifically spoke about quotas.

Nobody is denying quotas have been one way of assessing performance. I think we understand that they were a way to either assess performance or single out a given police officer for unjust or unfair discipline. What people tend as well to be in common agreement on is that quotas, although designed to test performance, are an

ineffective, inaccurate and unfair mode of testing performance and they simply ignore the realities of policing.

I want to express gratitude specifically to Roy Rawluk, who has articulately and indeed prolifically provided commentary on this particular issue to the committee. His comments on it have been particularly useful, I'm sure from the point of view of all of the opposition members of the committee, in addressing this issue of unsatisfactory work performance and in attempting to persuade Mr Wood that the matter has to be addressed here in committee. The history of it has to be understood and what the government intends by it has to be understood.

Mr Rawluk has provided me with some information which has been helpful, because one of the questions is, where was the genesis of this phrase? Who called for it? We didn't hear from any persons making submissions, any organizations, any of the participants in the hearings, we didn't hear any of them speak to a need for this new disciplinary standard or definition of misconduct.

Mr Rawluk writes that if we look to the Review of Police Services in Ontario: A Framework for Discussion, coming out of the ministry, we'll see the comment:

"Some police officer conduct may be the result of a training deficiency or simple incapacity to perform adequately in certain areas of police endeavour. A punitive system would be clearly inappropriate here. The current Police Services Act provides hearing procedures to deal with mental or physical disability situations as well as non-performance or incapacity to perform duties in a satisfactory manner."

Mr Rawluk concludes that this analysis, this Framework for Discussion, this paper prepared within the ministry, makes it clear that it was never intended that the phrase "unsatisfactory work performance" be a definition of a set of conducts that are going to be subject to discipline. I'm grateful to him for having raised that, and when I read particularly the comment from that paper, "A punitive system would be clearly inappropriate here," I note how significantly that contradicts and contrasts with the current position of the government.

Again, nobody on the opposition side, nobody from within the police force, is suggesting that matters of mental or physical disability situations as well as non-performance or incapacity to perform duties in a satisfactory manner should not be addressed. Similarly we understand that the current code of misconduct, the rules, have been 100% effective in addressing those. Let's not confuse this. Mr Wood, confused as he was, talked about "unsatisfactory work performance" as being a means of expanding the realm of public complaints. Mr Wood was wrong in that regard. He was entirely wrong. He was ill informed. He was ignorant of the bill and of the back-

ground to the bill. It was an entirely inappropriate comment for him to make, because clearly unsatisfactory work performance has nothing to do with public complaints. It has everything to do with discipline within the police force. We're not dealing here with public complaints; we're dealing here with expanding the power of management to discipline.

Once again the comment: "Some police officer conduct may be the result of a training deficiency or simple incapacity to perform adequately in certain areas of police endeavour. A punitive system would be clearly inappropriate here" — the bill, with its inclusion of "unsatisfactory work performance" and utilizing that as a basis for discipline, has not only ignored the recommendation in the discussion paper but has run contrary to it. Mr Wood is either incapable of telling us what is intended to be addressed by this or unwilling to do it. Depending upon the moment, I'm inclined to believe he's incapable, then the next moment I reach the conclusion that he's simply not prepared to tell us, then there are moments later when I find he's incapable again.

I believe this committee deserves the very simple and honest questions answered about the source of this concept, "unsatisfactory work performance." It's not a difficult question. We all understand how policy is developed and then translated into legislation. We know there's little that's left unaddressed in the course of interpreting policy into legislation. We know there is an answer to that question and a readily obtainable one, if Mr Wood is so ill informed that he wasn't aware of it by virtue of being the parliamentary assistant.

As well as the motivation for the new concept, "unsatisfactory work performance," I believe the committee has a right to be told of how the government anticipates this will be utilized. Once again, we all know that those things are considered, that this isn't developed in a vacuum, that when you consider what ill you want to address by "unsatisfactory work performance," you also have an idea about how it's going to be applied and how it's intended to be applied. I think we have a right to know that. In fact, I believe we have a responsibility to ask that question so that Hansard can reflect the government's understanding of how it's intended or anticipated that it's going to be applied.

Once again, Mr Wood is either incapable, notwithstanding that he's the parliamentary assistant and earns some \$11,000 a year in addition to his MPP's salary of \$78,004 a year, or unwilling to respond to that question. In either case, I think it's an affront to the committee that he has played silly bugger with opposition members in response to those questions.

It's unfair to the police officers who have addressed this over and over again with genuine concern. I interpret the concern as being dual. Is there concern on the part of police officers about being subjected to arbitrary discipline? You bet your boots there is, as there should be on the part of any person in a workplace who is subjected to discipline by an employer. I think we're putting police officers in a position where they can be the subject of whimsical, arbitrary and unfair impositions of discipline. As well, nobody here can reach any other conclusion than

that this is designed to deal with enforcing quotas. That's bad policing.

Police officers — and they have every right to express their self-interest as people working for a living and working in a dangerous and demanding job — have a right to be free of the fear of unfair discipline or loss of employment.

As well, the concern by police officers about "unsatisfactory work performance" is very much related to their commitment to quality policing. "Unsatisfactory work performance," as it's included in this bill, and as it remains undefined and without comment by the government, poses a real danger to the quality of policing. Policing is, I believe, as much an art as it is a science. We have had a high quality of policing in this province, and continue to, notwithstanding the government's insistence on increasingly underfunding police services.

I am disappointed that the parliamentary assistant, with either his incapacity or his unwillingness, has not responded to these matters. I think it's an affront to police in every police services board across this province and I think it's ironic that it comes from a government that talks a big game about being law and order and pro-police. It's an insult to police officers who, I have no hesitation in saying, I believe in large numbers supported this government or Conservative candidates in the last provincial election based upon what they perceived to be the government's attitude towards police.

Obviously we're going to be voting against each and every part of this bill; that includes the phrase "unsatisfactory work performance." I had hoped that some of the government members might have shared some of the concern about "unsatisfactory work performance." I had hoped that the week or the six days since we last met as a committee might have given some people an opportunity to either talk to police officers or some of the people who made presentations or to reflect on it in their own right, or to talk to their caucus colleagues to motivate them to stand opposed to this concept of unsatisfactory work performance. I suspect that the six days hasn't been sufficient to do that.

However, I am reminded of Bill 84 and I am reminded of what happened to government members who did listen to presentations. You remember, of course, what happened to the parliamentary assistant, Gary Carr, when he was listening to firefighters about Bill 84, and the Vice-Chair, Ron Johnson, who was listening to firefighters and their concerns about Bill 84. Well, both these people got dumped unceremoniously, got fired. In the case of Gary Carr and Ron Johnson, the parliamentary assistant, Gary Carr, on the last day of the hearings was fired notwithstanding that he was the parliamentary assistant to the Solicitor General and carried the hearings through the whole process.

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I hope that police associations exhaust every resource available to them to oppose the application of unsatisfactory work performance as a disciplinary tool. I doubt if the Hansard is going to be of much use to them in view of the parliamentary assistant's inability or unwillingness to respond to questions about it, but I look forward to the chance, if indeed the government remains adamant about



unsatisfactory work performance, to address this bill at some time in the near future, once we see how inappropriate that standard is, how unfair it is and how detrimental it is to the morale of police officers and inevitably, as a result of that, to the effectiveness of policing in the province.

I have no doubt that cops, if asked to — if ordered to, not if asked to — will meet quotas, but they'll do it knowing that is not the best way to effect policing, and I think that's a sad, sad, sad thing. It puts police at risk and it puts the public at risk when cops are compelled to go out there and raise revenues and tested or required to meet quotas rather than out there doing real policing.

The House leaders made a deal, and the deal was that today would be the last day of clause-by-clause consideration. I spoke with the Liberal House leader today and I spoke with my caucus's whip, who told me of the deal. I explained to both of them that there were a considerable number of amendments left, that I expected to request appropriate comments by way of my questions or my comments on those amendments as the need arose and I wasn't sure whether the committee would finish its work today in any event. What the government told them, to extract this commitment out of the Liberal and NDP House leaders, was that the government would consent to two more opposition days: one day for the NDP and one day for the Liberals. That was the tradeoff. The opposition parties each got an opposition day in exchange for our not pursuing this issue any further at the committee.

This isn't the first government to extract that sort of commitment or to cut that sort of deal, but I find it no more palatable from this government than I did from the last government or from the government before that. I think that's a pathetic way to run a democratic institution.

I've explained, I believe, as thoroughly as I can our concerns about "unsatisfactory work performance." Mr Ramsay and Mr Crozier have intensively, throughout the two days of hearings last week. Obviously Mr Ramsay can't be here today. He's not in a riding that's close to Toronto like I am that enables me to drive back to my riding after 6 o'clock. Similarly, Mr Crozier wouldn't be in a position to simply drive back to Windsor to deal with his community on a federal election day. The government insisted on meeting today. The government's had a heck of a time meeting its quorum commitment in the House. There have been several quorum calls already. The government House leader talked a big game about how the government wants to work, yet I'd be surprised if there were even 50% of its caucus members here today. Certainly only half the cabinet was in the House. It was only half the cabinet during question period. I find that a pretty peculiar thing.

Having spoken with Mr Bradley and Ms Lankin, and being aware that they had made a deal but that it was a deal that I could kibosh if I wanted to, they understood that I wasn't going to feel bound by their deal. But they both requested that I permit the two opposition days. Their view is that those opposition days, one for the Liberal caucus and one for the NDP caucus, will be more effective at revealing this government to be what it is than would protracted committee hearings on this. For that reason I am not going to engage in — what's the

phrase? — dilatory comments or questioning. I will speak out on each amendment as it's presented, if there's a need to, to put something on the record. I anticipate that with any luck at all, these amendments will all be voted upon today and the bill will be voted upon by committee.

If I thought that we would actually make progress by me continuing to be dilatory, trust me, I'd continue to be dilatory. I'd be the most dilatory little thing you ever saw. But I'm not confident that anything is going to be achieved by it. I think that's unfortunate. Here we are today, we've got some nasty little rule changes tabled in the House which are going to even further restrict the ability of opposition to debate and raise issues and make issue of matters before the House. I suppose we in the opposition had better keep our powder dry and be prepared to engage in some pretty protracted struggles and fights, using whatever creativity, Cafon Court creativity, we can muster.

Here we are on government motion 71, I believe, Chair, and I have no more comments with respect to it. I'll be voting against it and asking for a recorded vote.

**The Chair:** Is there any further discussion?

**Mr Bob Wood (London South):** With some trepidation, having successfully convinced some members of the merits of this and not so successfully with others, I might attempt a further explanation which might or might not be of some assistance.

I might say I understand the concerns expressed by the police and by opposition members. Obviously the issue is, how do you address unsatisfactory work performance? Currently those are dealt with as misconduct offences under the Police Services Act. Basically the chiefs of police and the provincial commission have to deal with work performance issues as neglect of duty or another offence under the code of conduct. Some of these issues, like lateness, should be dealt with quickly and simply. Under this bill the chiefs are going to be able to deal effectively with work performance issues that shouldn't be the subject of a disciplinary prosecution under the act. The bill also gives the chief more flexibility to deal with work performance issues by way of counselling, training and treatment.

There are concerns, rightly expressed. Suppose there is an unsatisfactory definition. What controls are there on that? That I think is an entirely fair question. Bear in mind that under the bill the officer has to consent to any action taken or the matter proceeds to a hearing under the act, and that decision is subject to appeal to the provincial civilian commission. The ultimate control and the ultimate answer to the concerns raised, such as the concern raised about quotas, is that the civilian commission is not going to permit inappropriate definitions of unsatisfactory work performance.

1600

**Mr Gerry Phillips (Scarborough-Agincourt):** I had come expecting that Mr Wood was going to have a definition of this, and perhaps I was misinformed. My concern is that you just said, I think, that there are ways to define "unsatisfactory work performance." I can understand our police community's concern about the unknown. This looks like it's the unknown to them; to me as well. It would be helpful for me if you were to

say, "Here are situations that have come up in the past that our police community was unable to deal with and that's why we are putting this 'unsatisfactory work performance' clause in."

I would much prefer to have those things spelled out rather than have what looks like a possible blank cheque that puts our police officers at risk in terms of unsatisfactory work performance being things that perhaps no one here had contemplated but which would be completely permitted under the law. We've got decades of experience now of where police communities are unable to deal with these. Why don't we simply put those things in? That would eliminate this real unease the police community has.

I guess I misinterpreted what I thought would be explained here today.

**Mr Bob Wood:** I'd be pleased to address that issue. We think a statutory definition of "unsatisfactory work performance" is very difficult to do because what is satisfactory work performance is a dynamic concept, not a static concept; as with any profession, what is the right way to do something changes over the years.

It's an entirely fair question: Where does an officer find a definition of what they're supposed to do? That should come from police chiefs themselves, who are going to set out what is expected. Interestingly enough I think you'll find, and may already have found, in talking to people in the police community, that there's a reasonable consensus around what that is. It does change from time to time.

Where might one look? One might look in the Police Services Act. One might look in this bill. One might look in the code of conduct. One might look at the actual work practices. It's an entirely fair question. One can't operate in a vacuum. One has to know what is expected, and I think that will come from the police. In those rare cases where there's a disagreement it will work its way through the system where the provincial civilian commission will ultimately give a definition if there's a lack of clarity. But I think the information is there and the safeguards are there.

Obviously no one argues that you have to deal with unsatisfactory work performance. That's self-evident. The question is, how do you do it? We think this is a way that's going to make it better for all concerned.

**Mr Phillips:** You can imagine your answer raises more questions because what you said was that it is a moving target. I think that is the term you used. So what may be deemed as satisfactory today by the police chiefs could be unsatisfactory tomorrow. By having this in the bill and having it as a moving target, you can imagine perhaps how nervous the police community now becomes, when not only can we not define it today, but you're telling us it probably is going to change fairly substantially over time, and the police chiefs, I gather, can then also redefine what is unsatisfactory.

It makes our police community very nervous. The reason it's important is there's probably no more sensitive community service than police, as we all know, and if their role of what's satisfactory can be changed unilaterally by the police chief, then we have a problem. I hear your answer, but it raises unease rather than lowers the concern.

**The Chair:** Could we proceed to Mr Klees? Sorry, Mr Wood.

**Mr Bob Wood:** I have an answer to that, but I'm getting the hook here.

**The Chair:** No, you're not getting the hook. You will be next, but Mr Klees was on my list before you. That's all.

**Mr Frank Klees (York-Mackenzie):** I want to follow up on Mr Phillips's question. I don't have a problem with your initial explanation. However, for clarity, what I would like to know is, if I'm a police officer, it would be important for me to know where these standards are set down against which my performance would be measured. You referred, I think, to three or four different locations where one might go. If I'm a police officer, is there something I can go to that is in writing that would give me that sense of clarity about what's expected of me? If I'm on the Metro force, is there something that would be issued by the chief of police of that force, if I'm elsewhere? Could you just comment on that?

**Mr Bob Wood:** I want to clarify a point. I think Mr Phillips misapprehended slightly what I said. I didn't say there couldn't be a definition. I said it would be inappropriate to introduce a definition into a statute because it is a dynamic thing. Police practices change. It's not that I don't think it can be defined; I think it can be defined. How it's defined now is an important question because the officers have to know that. Basically it's defined by the chiefs. In many forces they have standing orders that actually define that. If there's any lack of clarity, of course the chief is there and the police administration is there to explain that to officers. So officers are not in any way working in the dark.

I reiterate the point I made earlier. There's great consensus around what is satisfactory work performance for a police officer. This is not something where there are piles of disputes. However, it is also true that the word of the chief should not be final, and that's why there's the appeal to the civilian commission, which deals with this now under the current process. It's not that the civilian commission, when called upon, doesn't make that definition now, but it is relatively rare that's done because there is considerable consensus.

**The Chair:** Is there any more discussion in regard to the amendment? Then I shall put the vote. A government motion.

**Ayes**

Boushy, Flaherty, Klees, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos.

**The Chair:** The amendment is carried. We are proceeding to item 72.

**Mr Kormos:** I move that subsections 63(16), (17) and (18) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Disposition without a hearing if informal resolution fails



"(16) If an informal resolution of the matter is attempted but not achieved under subsection (12), the following rules apply:

"1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

"2. The chief of police may then admonish the police officer and may cause an entry concerning the matter, the action taken and the police officer's reply to be made in his or her employment record.

"3. If the police officer refuses to accept the admonition, the chief of police shall not cause particulars to be recorded without first holding a hearing.

"Employment record expunged

"(17) An entry made in the police officer's employment record under paragraph 2 of subsection (16) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this part.

"Agreement

"(18) Nothing in this section affects agreements between boards and police officers or associations that permit penalties other than admonition to be administered, if the police officer in question consents, without a hearing under subsection (8)."

This is consistent with all our other amendments requiring, among other things, the opportunity to reply orally or in writing and, as I say, was consistent with earlier amendments which all reflect to the same principles.

**Mr Bob Wood:** We think there is some merit in this motion but prefer our version, which is the next motion, and I'll explain the reasons in a couple of minutes.

1610

**The Chair:** Is there any further discussion in regard to Mr Kormos's proposed amendment? If not, is a recorded vote requested?

**Mr Kormos:** Please, sir.

**Ayes**

Kormos.

**Nays**

Boushy, Klees, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is defeated. We are proceeding with item 73.

**Mr Bob Wood:** I move that subsections 63(16), (17) and (18) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Disposition without a hearing if informal resolution fails

"(16) If an informal resolution of the matter is attempted but not achieved under subsection (12), the following rules apply:

"1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

"2. Subject to paragraph 3, the chief of police may impose on the police officer the penalty described in clause 67(1)(e) and may take any other action described in subsection 67(4) and may cause an entry concerning the matter, the penalty imposed or action taken and the police officer's reply to be made in his or her employment record.

"3. If the police officer refuses to accept the penalty imposed or action taken, the chief of police shall not impose a penalty or take any other action or cause any entry to be made in the police officer's employment record, but shall hold a hearing under subsection (8).

"Employment record expunged

"(17) An entry made in the police officer's employment record under paragraph 2 of subsection (16) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this part."

"Agreement

"(18) Nothing in this section affects agreements between boards and police officers or associations that permit penalties or actions other than those permitted by this section, if the police officer in question consents without a hearing under subsection (8)."

These of course are changes in procedures for handling non-serious complaints. They require a chief of police to give the subject police officer reasonable information regarding the complaint and the police officer an opportunity to respond. They also require the consent of the police officer before a penalty is imposed or other action is taken by the chief of police. If the police officer consents to the penalty or other action taken, the chief of police may make an entry regarding the penalty or action taken in the police officer's employment record. If the police officer does not consent, no entry will be made in the police officer's employment record and a hearing will be held. Of course it does not affect existing agreements.

**The Chair:** Is there any further discussion in regard to the proposed amendment? All those in favour? The amendment is carried.

We are proceeding to item 75.

**Mr Bob Wood:** I move that subsection 64(3) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Frivolous, vexatious, bad faith complaints

"(3) The board may decide not to deal with any complaint that it considers to be frivolous or vexatious or made in bad faith and shall notify the complainant and the police officer who is the subject of the complaint in writing of the decision and of the complainant's right to ask the commission to review the decision within 30 days of receiving the notice.

"Complaint more than six months old

"(3.1) The board may decide not to deal with any complaint that was made more than six months after the facts on which it is based occurred and shall notify the complainant and the police officer who is the subject of the complaint in writing of the decision and of the complainant's right to ask the commission to review the decision within 30 days of receiving the notice."

This amendment allows the police services board not to deal with a complaint about the conduct of the chief or deputy chief made in bad faith and requires the board to notify the subject police officer and the complainant of its decision and of the complainant's right to ask the provincial commission to review this decision.

This provision already exists in subsection 64(3) in the case of "frivolous or vexatious." The new (3.1) allows the police services board not to deal with a complaint made by a member of the public about the chief or deputy chief if the complaint is more than six months old and requires the police services board to notify the subject police officer and the complainant of its decision and the complainant's right to ask the provincial commission to review this decision.

**The Chair:** If there's no other discussion, shall the amendment carry? The amendment is carried.

Mr Wood, may I suggest that unless you are asked a question or for an explanation, you withhold the explanations after reading the amendment.

**Mr Bob Wood:** I will give no explanation unless requested.

I move that subsections 64(5) and (6) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Investigation assigned to another police force

"(5) If, at the conclusion of the review, the board is of the opinion that the chief of police's or deputy chief of police's conduct may constitute an offence under a law of Canada or of a province or territory, or misconduct, as defined in section 73, or unsatisfactory work performance, the board shall ask the commission to assign the chief of police of another police force to cause the complaint to be investigated immediately and the investigation to be reported on in a written report."

**The Chair:** Is there any question or discussion in regard to this amendment? If not, shall the amendment carry? The amendment is carried.

Item 77.

**Mr Bob Wood:** I move that subsections 64(7) and (8) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Matter referred to board

"(7) If, at the conclusion of the investigation carried out by another police force, the chief of police of the other police force is of the opinion that the conduct of the chief of police or deputy chief of police under investigation may constitute misconduct, as defined in section 73, or unsatisfactory work performance, he or she shall refer the matter, together with the written report, to the board.

"Unsubstantiated complaint

"(8) If, at the conclusion of the investigation carried out by another police force, the chief of police of the other police force is of the opinion that the complaint is unsubstantiated, the chief of police shall report that in writing to the board and the board shall take no action in response to the complaint and shall notify the complainant and the police officer who is the subject of the complaint, in writing, together with a copy of the written report, of the decision, and of the complainant's right to ask the commission to review the decision within 30 days of receiving the notice."

**The Chair:** Is there any question or discussion? If not, shall the amendment carry? The amendment is carried.

Item 78.

**Mr Bob Wood:** I move that section 64 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Board pays for prosecutor

"(10.1) The board shall pay the prosecutor's remuneration, whether the prosecutor has been designated by the board or by the commission."

**The Chair:** Any questions or discussion? If not, shall the amendment carry? The amendment is carried.

Item 79.

**Mr Bob Wood:** I move that subsections 64(11) and (12) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Findings and disposition after hearing

"(11) At the conclusion of a hearing by the board, if misconduct or unsatisfactory work performance is proved on clear and convincing evidence, the board shall take any action described in section 67; at the conclusion of a hearing by the commission, if misconduct or unsatisfactory work performance is proved on clear and convincing evidence, the commission shall direct the board to take any action, as specified by the commission, under section 67 and the board shall take such action.

"Informal resolution if conduct not serious

"(12) If the board is of the opinion, on a review of the written report, that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the board may resolve the matter informally without holding a hearing if the chief of police or deputy chief of police and the complainant consent to the proposed resolution."

**The Chair:** Any questions or discussion? If not, shall the amendment carry?

**Mr Kormos:** Recorded vote, please.

**Ayes**

Boushy, Klees, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos.

**The Chair:** The amendment carries.

Item 80.

**Mr Kormos:** I move that subsection 64(12) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Informal resolution if conduct not serious

"(12) The board may resolve the matter informally, without holding a hearing, at any point during or after the investigation, or during a hearing into the complaint if,

"(a) it is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature;

"(b) the chief of police or deputy chief of police is given an opportunity to reply, orally or in writing; and

"(c) the complainant and the chief of police or deputy chief of police consent to resolving the matter informally."



Once again this is consistent with previous amendments we've made permitting the opportunity to reply, among other things.

**The Chair:** Is there any further discussion?

**Mr Bob Wood:** As Mr Kormos pointed out, this parallels their earlier position. We of course have addressed informal resolution in a slightly different way and are therefore opposed to this motion.

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos.

**Nays**

Boushy, Klees, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 81.

1620

**Mr Kormos:** I move that subsections 64(16), (17), (18), (19) and (20) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Disposition without a hearing if informal resolution fails

"(16) If an informal resolution of the matter is attempted but not achieved under subsection (12), the following rules apply:

"1. The board shall provide the chief of police or deputy chief of police with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

"2. The board may then admonish the chief of police or deputy chief of police and may cause an entry concerning the matter, the action taken and the chief of police's or deputy chief of police's reply to be made in his or her employment record.

"3. If the chief of police or deputy chief of police refuses to accept the admonition, the board shall not cause particulars to be recorded without first holding a hearing under subsection (9).

"Employment record expunged

"(17) An entry made in the chief of police's or deputy chief of police's employment record under paragraph 2 of subsection (16) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this part.

"Agreement

"(18) Nothing in this section affects agreements between boards and chiefs of police or deputy chiefs of police that permit other penalties than admonition to be administered, if the chief of police or deputy chief of police in question consents, without a hearing under subsection (9)."

Once again this is consistent with other amendments providing for informal resolution.

**Mr Bob Wood:** We think there is some merit in this but prefer our motion, which is in fact number 83. We are therefore opposed to this.

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos.

**Nays**

Boushy, Klees, Rollins, Ross, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 83.

**Mr Bob Wood:** I move that subsections 64(16), (17), (18), (19) and (20) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Disposition without a hearing if informal resolution fails

"(16) If an informal resolution of the matter is attempted but not achieved under subsection (12), the following rules apply:

"1. The board shall provide the chief of police or deputy chief of police with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

"2. Subject to paragraph 3, the board may impose on the chief of police or deputy chief of police the penalty described in clause 67(2)(e) and may take any other action described in subsection 67(4) and may cause an entry concerning the matter, the penalty imposed or action taken and the chief of police's or deputy chief of police's reply to be made in his or her employment record.

"3. If the chief of police or deputy chief of police refuses to accept the penalty imposed or action taken, the board shall not impose a penalty or take any other action or cause any entry to be made in the employment record, but shall hold a hearing, or refer the matter to the commission to hold a hearing, under subsection (9).

"Employment record expunged

"(17) An entry made in the chief of police's or deputy chief of police's employment record under paragraph 2 of subsection (16) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this part.

"Agreement

"(18) Nothing in this section affects agreements between boards and chiefs of police or deputy chiefs of police that permit penalties or actions other than those permitted by this section, if the chief of police or deputy chief of police in question consents, without a hearing under subsection (9)."

**The Chair:** Is there any question or discussion? If not, shall this amendment carry? The amendment is carried.

We are proceeding to item 85.

**Mr Bob Wood:** I move that clause 67(1)(e) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"(e) direct that the police officer forfeit not more than three days or 24 hours pay, as the case may be; or."

**Mr Kormos:** I appreciate that this is a moderation of what was contained in the bill originally, which was five days, 40 hours pay, but I've got to tell you, I'm not familiar with any other workplace or worker who — I understand the concept of suspension without pay, and

that's in clause (d) of the bill which immediately precedes this and is traditional workplace discipline, I understand that, but to require somebody to work without getting paid as a form of discipline strikes me as being bizarre, unproductive, undesirable. One has to question how enthusiastic anybody is who's working a shift knowing that they're not getting paid for it.

I appreciate the government's moderating its position, reducing it to three days or 24 hours pay, but I just find it wacky and peculiar that police officers are subjected to a workplace discipline that I'm not sure any other worker — I suppose athletes have that done to them, right? They're fined, but they make millions and millions of dollars a year; cops don't.

I hoped that the government would have abandoned this archaic — and part of it comes from the military background of policing, but I don't think it has any place in a modern workplace, including in police services. I agree with the government's proposition to reduce the maximum, but I think it's an anachronism to maintain this.

**Mr Bob Wood:** I might say that in 25 years as an employer I have never docked anybody's pay, although I have reprimanded people from time to time. On the other hand this is a practice that's used, and as soon as Mr Kormos convinces the police community not to use the practice any more, it may well be that a statutory amendment will follow. But it is a practice now.

**Mr Kormos:** I'm not disputing that it's a practice; I'm just saying it's an anachronism and doesn't lend itself towards quality policing.

**Mr Bob Wood:** It may not be me that you have to convince on that.

**The Chair:** I have to agree with Mr Kormos: Police services are unique and always have been, and always will be, for that matter.

Is there any further discussion in regard to the amendment. If not, all those in favour? The amendment is carried.

Item 86.

**Mr Bob Wood:** I move that clause 67(2)(e) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"(e) direct that the chief of police or deputy chief of police forfeit not more than three days or 24 hours pay, as the case may be; or".

**The Chair:** Is there any further discussion? If not, all those in favour? It is carried.

Item 87.

**Mr Bob Wood:** I move that section 67 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Same

"(3.1) If a penalty is imposed under clause (1)(e) or (2)(e), the chief of police, deputy chief of police or police officer, as the case may be, may elect to satisfy the penalty by working without pay or by applying the penalty to his or her vacation, overtime or sick leave credits or entitlements."

**The Chair:** Is there any discussion? If not, shall the amendment carry? The amendment is carried.

Item 88.

**Mr Bob Wood:** I move that subsection 67(4) of the Police Services Act, as set out in section 34 of the bill, be amended,

(a) by inserting "or instead of" after "to" in the first line; and

(b) by striking out clause (d) and substituting the following:

"(d) take any combination of actions described in clauses (a), (b) and (c)."

**The Chair:** If there is no further discussion, shall the amendment carry? The amendment is carried.

Item 89.

**Mr Bob Wood:** I move that subsections 67(6), (7) and (8) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Notice of any action taken

"(6) The chief of police or board, as the case may be, shall promptly give written notice of the action taken under subsection (1), (2) or (4) with reasons, to the chief of police, deputy chief of police or other police officer who is the subject of the complaint and, in the case of an action taken by a municipal chief of police, to the board.

"Same

"(7) If the action was taken as a result of a complaint made by a member of the public, the chief of police or board, as the case may be, shall also give written notice of the action taken, with reasons, to the complainant.

"Police officer's employment record

"(8) The chief of police or board, as the case may be, may cause an entry concerning the matter, the action taken and the reply of the chief of police, deputy chief of police or other police officer against whom the action is taken, to be made in his or her employment record, but no reference to the allegations of the complaint or the hearing shall be made in the employment record, and the matter shall not be taken into account for any purpose relating to his or her employment unless,

"(a) the complaint is proved on clear and convincing evidence; or

"(b) the chief of police, deputy chief of police or other police officer resigns before the matter is finally disposed of."

**The Chair:** Is there any discussion or questions? If not, shall the amendment carry? That amendment is carried.

1630

Item 90.

**Mr Bob Wood:** I move that section 68 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Application of this section to hearings under this part

"(1.1) Subsections (2), (3), (4), (5), (6), (10), (11), (12), (13), (14) and (15) apply to any hearing held under this part."

**The Chair:** Is there any discussion in regard to the motion? If not, shall the amendment carry? The amendment is carried.

Item 91.

**Mr Bob Wood:** I move that subsection 68(8) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Inadmissibility of documents



"(8) No document prepared as the result of a complaint is admissible in a civil proceeding, except at a hearing held under this part.

"Inadmissibility of statements

"(8.1) No statement made during an attempt at informal resolution of a complaint is admissible in a civil proceeding, including a proceeding under subsection 63(16) or 64(16) or a hearing held under this part, except with the consent of the person who made the statement."

**Mr Kormos:** Clearly, the only amendment here is to delete what's in the bill which provides for the admissibility of documents and statements for hearings held under the part. You've deleted the hearings held under this part and barred them entirely with respect to statements. Why would you do that?

**Mr Bob Wood:** This apparently is consistent with the current act, which protects the officer in informal mediation. It flows from the current law for the purpose just indicated.

**The Chair:** Is there any further discussion? If not, shall the amendment carry? The amendment is carried.

Item 92.

**Mr Bob Wood:** I move that subsection 68(13) of the Police Services Act, as set out in section 34 of the bill, be amended by striking out "under subsection 63(6) or 64(6)" in the second line.

**The Chair:** Any question or discussion? If not, shall the amendment carry? The amendment is carried.

Item 93.

**Mr Kormos:** I move that subsections 69(1) and (2) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Appeal to commission

"(1) A complainant or police officer may, within 30 days of receiving notice of a decision made by a chief of police or board in respect of a complaint, appeal the decision to the commission by serving on the commission a written notice stating the grounds on which the appeal is based.

"Commission to hold hearing

"(2) The commission shall hold a hearing upon receiving a notice under subsection (1),

"(a) from a complainant; or

"(b) from a police officer with respect to a decision made after a hearing held under subsection 63(8) or 64(9)."

This again restores some of the power of appeal, the largest part of which has been abolished by Bill 105.

**Mr Bob Wood:** We see some merit in this motion but prefer our own, number 94, for reasons I'll outline in a minute if desired.

**The Chair:** Is there any further discussion?

**Mr Kormos:** Recorded vote, please.

**Ayes**

Kormos.

**Nays**

Boushy, Flaherty, Klees, Rollins, Bob Wood, Young.

**The Chair:** The amendment is lost.

Item 94.

**Mr Bob Wood:** I move that subsections 69(2) and (3) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Commission to hold hearing on notice from police officer

"(2) The commission shall hold a hearing upon receiving a notice under subsection (1) from a police officer.

"Commission to hold hearing on notice from complainant, limitation

"(2.1) The commission shall hold a hearing upon receiving a notice under subsection (1) from a complainant if the appeal is from the finding that misconduct or unsatisfactory work performance was not proved on clear and convincing evidence.

"Commission may hold hearing

"(3) The commission may hold a hearing, if it considers it appropriate, upon receiving a notice under subsection (1) from a complainant with respect to an appeal other than an appeal described in subsection (2.1)."

**The Chair:** Is there any discussion in regard to the amendment? If not, shall the amendment carry? The amendment is carried.

Item 95.

**Mr Bob Wood:** I move that subsection 70(2) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Grounds for appeal

"(2) An appeal may be made on a question that is not a question of fact alone, from a penalty imposed or from any other action taken, or all of them."

**Mr Kormos:** This is an interesting amendment, because it talks of actions which aren't going to be penalties. I'm curious about why subsection 70(2) is being amended in this way.

**Mr Bob Wood:** This apparently reflects changes that were made earlier; it's consequential to changes made earlier.

**Mr Kormos:** Okay, but what is the "any other action taken"? Subsection (2) says, "An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both." That seems to be pretty all-inclusive other than excluding appeals from determinations of fact alone.

**Mr Bob Wood:** Bear in mind that section 67(4) provides for action other than a penalty: remedial action. Without this amendment, you can't appeal the remedial action unless it's a penalty.

**Mr Kormos:** Thank you.

**Mr Bob Wood:** You're welcome.

**Mr Kormos:** I thank your staff as well, because I'm sure —

**Mr Bob Wood:** I'm sure they found it faster than I would. You're absolutely right.

**The Chair:** Is there any further discussion? If not, I shall put the question. Shall the government amendment carry? The amendment is carried.

We are moving on to item 96.

**Mr Bob Wood:** I move that subsection 71(2) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Same

"(2) If a complainant has been notified under subsection 58(5), 61(4) or 64(3) that his or her complaint will not be dealt with because it is frivolous or vexatious or made in bad faith, the complainant may, within 30 days of such notification, ask the commission to review the decision.

"Same

"(2.1) If a complainant has been notified under subsection 58(5), 61(4) or 64(3.1) that his or her complaint will not be dealt with because it was made more than six months after the facts on which it is based occurred, the complainant may, within 30 days of such notification, ask the commission to review the decision."

**The Chair:** Are there any questions or discussion? If not, shall the amendment carry? The amendment is carried.

Item 97.

**Mr Kormos:** Chair, this amendment relies on there having been an approval of the amendment which would have permitted third-party complaints. In view of the fact that the government members continue to resist third-party complaints in this bill, I ask that this amendment be withdrawn.

**The Chair:** We'll proceed, then, to item 98.

**Mr Kormos:** I move that section 72 of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following subsection:

"Commission may conduct own investigation

"(3) The commission may, on its own motion and at any stage in the complaints process, conduct an investigation into a complaint or hold a hearing in respect of a complaint."

This is, in my submission, a very important amendment which reflects the interests of there being civilian oversight and giving that oversight body adequate powers, including a power to intervene when it deems fit.

**Mr Bob Wood:** Our preference of course is that the commission should direct an investigation by a chief. Clause 25(1)(a) already permits the commission to conduct its own investigation into conduct.

**The Chair:** If there's no further discussion, shall the —

**Mr Kormos:** A recorded vote, please.

**Ayes**

Kormos.

**Nays**

Boushy, Flaherty, Klees, Rollins, Bob Wood, Young.

**The Chair:** The amendment is lost.

We are proceeding to item 99.

1640

**Mr Bob Wood:** I move that subsection 73(1) of the Police Services Act, as set out in section 34 of the bill, be amended by adding the following clause:

"(e.1) contravenes section 117 (trade union membership)."

**Mr Kormos:** I am anticipating that this makes section 73 — no, I'm not. I couldn't anticipate that. Explain the amendment.

**Mr Bob Wood:** I'm sorry. Can you give me your last sentence again?

**Mr Kormos:** I was going to anticipate your answer, but I decided not to do that. Go ahead, tell us what this is about.

**The Chair:** He would like an explanation.

**Mr Bob Wood:** It's what's known as a technical amendment, which corrects a drafting error. The clause currently exists in the Police Services Act, subsection 56(1).

**Mr Kormos:** So this is currently a misnomer.

**Mr Bob Wood:** No change.

**Mr Kormos:** Okay. I did anticipate it. Thank you.

**Mr Bob Wood:** No charge.

**The Chair:** If there's no further discussion, shall the government amendment carry? It is carried.

Item 100.

**Mr Kormos:** I move that section 75 of the Police Services Act, as set out in section 34 of the bill, be struck out.

Chair, the —

**Mr Bob Wood:** Mr Kormos, could I interrupt for a moment and indicate that we're going to vote in favour of this?

**Mr Kormos:** Thank you. But very briefly —

**Mr Bob Wood:** Feel free. I just wanted to let you know.

**Mr Kormos:** We continue in our opposition to this concept of unsatisfactory work performance as a disciplinary matter. It's our opinion that the legislative source of this is in section 75, and it's our hope that by virtue of striking out section 75 there will be a far weaker ground for police management to stand on when it comes to imposing discipline for unsatisfactory work performance.

**The Chair:** Mr Kormos's motion is being —

**Mr Kormos:** Recorded vote, please.

**The Chair:** Mr Kormos's motion is being supported, I understand, by the government. I therefore call the question.

**Ayes**

Boushy, Flaherty, Klees, Kormos, Rollins, Bob Wood, Young.

**The Chair:** The amendment is carried.

Mr Wood, I assume you are withdrawing 101.

**Mr Bob Wood:** I am indeed.

**The Chair:** Item 102.

**Mr Bob Wood:** I move that subsection 79(5) of the Police Services Act, as set out in section 34 of the bill, be struck out and the following substituted:

"Saving

"(5) Despite subsection (4), a hearing that commenced but is not concluded before January 1, 1998 under part V or VI of the act, as it read immediately before its repeal by section 34 of the Police Services Amendment Act, 1997, may proceed to its conclusion after January 1, 1998 and part V or VI of the act, as the case may be, as it read immediately before its repeal, continues to apply to the hearing and to the powers of the chief of police, board, commission or board of inquiry at the conclusion of the hearing."



**The Chair:** Is there any discussion? If not, shall this amendment carry? The amendment is carried.

Before I put the question on section 34, as amended, I'm asking for a discussion —

**Mr Kormos:** 104, please.

**The Chair:** No, that will be a new section, Mr Kormos. We're dealing with section 34, as amended by the amendments to this time. Is there any discussion?

**Mr Kormos:** Without protracting the argument, you know our strong opposition to the basic dismantling of the appellate powers of the commission and the increased infringement of the independence of the commission and its power to conduct independent inquiries and investigations on its own initiative. Our concern has been expressed, along with that of the Liberal representatives on the committee, Mr Ramsay and Mr Crozier, about this concept of unsatisfactory work performance as a disciplinary threshold, and we will therefore be voting against section 34, as amended. We would have voted against it before it was amended.

**The Chair:** A recorded vote has been requested. I put the question: Shall section 34, as amended, carry?

#### Ayes

Boushy, Flaherty, Klees, Rollins, Bob Wood, Young.

#### Nays

Kormos.

**The Chair:** Section 34 is carried.

Now we're dealing with item 104. I will say up front, Mr Kormos, whether this amendment is in order is suspect. However, read it into the record. Then I would like your views as to why it is in order.

**Mr Kormos:** Don't ask me the hard questions to discourage me right off the bat.

I move that the bill be amended by adding the following section:

"34.1 Section 113 of the act is amended by adding the following subsections:

"Cooperation of police officers

"(10) If an investigator requests any information or evidence from a police officer in the course of conducting an investigation, the police officer shall forthwith, and in any event not later than 24 hours after the request, give the investigator the information or evidence.

"Failure to cooperate

"(11) A police officer who fails to comply with subsection (10) shall be suspended without pay until he or she gives the investigator the requested information or evidence."

To argue its validity as a motion, if Bill 105 were not the omnibus amendment that it is to the existing Police Services Act, objections to this amendment being in order would be appropriate. In view of the fact that Bill 105 is a rewriting, as such, of all of the existing Police Services Act, I submit that opens the door entirely.

What I'm trying to say is, for instance, if the bill addressed only police officers' misconduct, then it wouldn't be on very firm ground. If it only addressed the appellate powers of the commission, we wouldn't be on very firm ground. But in fact it is an overhaul of the

Police Services Act, and by virtue of it being an overhaul it opens the door wide to addressing any section of the current Police Services Act, and in this case it's section 113.

**Mr Bob Wood:** We are inclined to the view that this motion is indeed out of order as section 113 of the act is not brought into this bill.

**The Chair:** I understand and have been advised by the clerk that as this amendment does not deal with the act before us, the short title being an amendment to the Police Services Act, but is in fact an attempt to amend the Police Services Act, it therefore is out of order. In addition, of course, the amendment does not affect a section which is presently affected by the act before us, Bill 105. Therefore, Mr Kormos, notwithstanding your very inventive argument, the section is out of order and we will proceed to item 105.

**Mr Bob Wood:** I move that paragraph 6.1 of subsection 135(1) of the Police Services Act, as set out in subsection 39(2) of the bill, be struck out.

**The Chair:** Any discussion? If not, all those in favour? Carried. Item 106.

**Mr Bob Wood:** I move that paragraphs 23.1 and 23.2 of subsection 135(1) of the Police Services Act, as set out in subsection 39(5) of the bill, be struck out and the following substituted:

"23.1 defining 'frivolous or vexatious' and 'made in bad faith' for the purposes of clause 22(1)(e.1) and subsections 58(3), 61(2) and 64(3);"

**Mr Kormos:** You redefine 23.1, and fair enough, because you throw in "made in bad faith" and then adjust it to reflect amendments to the act. But you dismiss 23.2, which is basically deleted. Am I correct? If so, what was your quarrel with 23.2, which in effect appears to call for some guidelines which would be valuable?

**Mr Bob Wood:** The reason for the deletion of the regulation-making power under subsection 23.2 is that there's no need for it. If the parties don't consent, they can't proceed anyway.

1650

**Mr Kormos:** I hear you. But a chief of police or whatever reviewing body can only initiate that if it's conduct which is not of a serious nature. That means that even if there is consent, when the conduct is of a serious nature — are you suggesting that even conduct of a serious nature can be resolved on consent?

**Mr Bob Wood:** No. I'm saying where you have to have something resolved by consent, you don't have to have regulation power to make definitions, because if the parties aren't satisfied, they won't consent.

**Mr Kormos:** But once again, you only want to permit consensual resolution on matters that are not of a serious nature.

**Mr Bob Wood:** That's correct.

**Mr Kormos:** And what you've got here is power to make a regulation that would define what are matters that aren't of a serious nature and you're saying we don't need that any more. I'm saying that you're then creating a black hole because it's only when the conduct isn't of a serious nature, which surely has to be some objective test, that parties can consent. You're saying that because parties can consent, we don't have to define what consti-

tutes serious or not serious. I'm suggesting to you it's all the more important to define it because you can only consent to informal resolution when the conduct isn't of a serious nature. That's why you need the regulatory power to establish guidelines and list or prescribe conduct which is not of a serious nature so that it is able to be resolved informally.

**Mr Bob Wood:** It would seem to me that if indeed there is a dispute of that nature, the whole appeal procedure then applies. If they can't agree, it goes through the process. The process is there to make any definitions needed. Where the parties consent, we don't see the need to have regulatory power to make definitions. If there's a failure of agreement, it then goes through the process.

**Mr Kormos:** Thank you. Chair, I indicate I'm concerned about that and will be voting against this amendment.

**The Chair:** Thank you, Mr Kormos. If there's no further discussion, shall the amendment carry?

**Ayes**

Boushy, Flaherty, Klees, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos.

**The Chair:** Shall section 39, as amended, carry? All those in favour? Carried.

**Mr Bob Wood:** Have we passed the sections from 35 to 38?

**The Chair:** I'm just about to do so. I skipped over sections 35 to 38, inclusive. Is there any discussion in regard to those sections? If not, shall those sections carry? All those in favour? Carried.

The remainder are sections 40 to 45, inclusive. Is there any discussion in regard to those sections? If not, shall those sections carry? Carried.

Shall section 46, short title of the bill, carry? All those in favour? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 105, as amended, carry? A recorded vote is requested. All those in favour? Sorry. Mr Kormos.

**Mr Kormos:** Mr Chair, I want to speak to it. All of us appreciate that the government has met in a very modest way — in the most modest way has it responded to some of the concerns raised. Yet the concerns that were substantial continue to be overlooked and ignored by the government.

We don't think this bill is good for policing. We don't think it's good for the model of civilian oversight that's been developed over the course of primarily the last 10 years, since 1985. We believe there's a strong and important role for civilian oversight. We think the bill reflects the worst of all worlds in that it takes us back in time, where effectively it turns into the police policing the police when it comes to citizen or public complaints. The abandonment of third-party complaints is atrocious.

We very much wanted to be able to generate debate over section 113 of the bill, the minister, Bob Runciman, having assured us on the very first day of these hearings that duty to cooperate was very much a matter that was on the table and indicating that further in comments to the press perhaps a month ago now. Enhanced disciplinary powers by chiefs of police: The "unsatisfactory work performance" issue is one that we do not believe has been adequately addressed.

We are not supporting this bill either in committee or on third reading. Again a whole lot of participants were excluded, first from the consultation process by the minister, and we heard about them and from them, and some very restrictive committee hearings. We'll be voting against Bill 105.

**Mr Bob Wood:** The minister has indicated that the protocol with respect to the SIU will be looked at over the summer, and he's indeed going to proceed to do that.

Speaking to the bill generally, we believe it to be a step forward. We think it's a good bill. We have confidence in all involved and we think it's going to work considerably better than the current process.

**The Chair:** Is there any further discussion? A recorded vote is requested. Shall Bill 105, as amended,

**Ayes**

Boushy, Flaherty, Klees, Rollins, Ross, Bob Wood, Young.

**Nays**

Kormos.

**The Chair:** The bill, as amended, is carried.

Last, shall Bill 105, as amended, be reported to the House? All those in favour? Carried.

I would like to thank all members of the committee for your cooperative behaviour today in completing this matter, and also the staff for helping us in this rather difficult bill. This committee is adjourned at the pleasure of the Chair.

*The committee adjourned at 1659.*





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## **Legislative Assembly of Ontario**

First Session, 36<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Première session, 36<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

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**Mardi 2 septembre 1997**

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Tuesday 2 September 1997

Mardi 2 septembre 1997

*The committee met at 1532 in room 228.*

## COMMUNITY SAFETY ACT, 1997

LOI DE 1997 SUR LA SÉCURITÉ  
DE LA COLLECTIVITÉ

Consideration of Bill 102, An Act to improve community safety by amending the Change of Name Act, the Ministry of Correctional Services Act and the Police Services Act / Projet de loi 102, Loi visant à accroître la sécurité de la collectivité en modifiant la Loi sur le changement de nom, la Loi sur le ministère des Services correctionnels et la Loi sur les services policiers.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen. This is a sitting of the justice committee considering Bill 102. Our first order of business is to consider the subcommittee report made Wednesday, August 20, 1997. I would be prepared to receive a motion to adopt that report.

**Mr Bob Wood (London South):** So moved.

**The Chair:** Moved by Mr Wood. Is there any discussion? If not, all those in favour? Carried.

Pursuant to the amended standing orders of August 1997, I have the authority to establish the time limit for filing amendments in regard to this bill. I'm suggesting this Friday, September 5, at 3 pm. If there is no objection, that will be the date for filing of amendments.

We will continue with the hearing. We have set aside a flexible one half-hour for representations to the bill by each of the caucuses. As is our tradition, we start with the loyal opposition.

**Mr David Ramsay (Timiskaming):** I certainly don't want to take up too much time, as the Liberal Party is supportive of the direction and intention of this legislation. I think it presents some good first steps in the protection of the public from dangerous offenders.

But I would say that just warning the public about the release of dangerous criminals is not enough. The best thing to do would be to keep these offenders behind bars as long as possible, either by aggressively pursuing dangerous offender applications at the time of sentencing, by amending the Mental Health Act to keep high-risk offenders incarcerated after their sentences expire, or by working with the federal government to protect the Ontario public from dangerous and repeat offenders.

I think most members realize that one of the big reasons this bill is before us comes from the outstanding coroner recommendations from the Stephenson inquest. To remind people, Christopher Stephenson was an 11-year-old Brampton boy who was kidnapped, sexually assaulted and murdered by Joseph Fredericks, a well-known psychopath and repeat sexual offender. At that time, the murderer Fredericks was out on mandatory supervision — parole — after serving two thirds of a five-year sentence for sexually assaulting a boy in Ottawa.

At that time, the coroner's jury in the Stephenson inquest made 71 recommendations and, if you take all the subrecommendations, 108 all together, to a total of 116 different governments, ministries, organizations and agencies aimed at enhancing the safety in the system, and still many of those recommendations have not been implemented by either the federal government, the Ontario government or many of these agencies. This bill will start to address some of those things.

Periodically, the chief coroner's office issues a progress report on implementation of the recommendations. The latest figure I have, as of May 1995, is that about 20 of the recommendations, about 30%, have not yet been implemented. I take it this bill brings some of that more forward.

To date, the coroner has been very critical of both levels of government as to the lack of special legislation to protect the community, and children in particular, from dangerous sexual predators.

**Ms Frances Lankin (Beaches-Woodbine):** First of all, I want to indicate that I am here today in place of our critic, Mr Kormos, who is attending estimates committee at this time because the AG's ministry is there. The standing orders do make sure that you can't have the same policy area in the Legislature and in a committee at the same time, but unfortunately, it doesn't stop it from being in two committees. It's probably a rule change we didn't make that we should look to in the future, because I think it's unfortunate when the critic is not able to be here to address this bill. I'm sure he will have an opportunity, however, on the second day of hearings or through clause-by-clause to make his views known on this.

In general, caucus is quite supportive of the direction of the bill. I think on all sides of the Legislature we would find it important to take whatever steps are possible, however small they are, that will ensure greater community safety. Some of the things that I will hope to hear from

presenters is how they think this bill does effect greater community safety and, given that much of the detail remains to be pronounced in regulation, what recommendations they have for us as a committee and for the government with respect to the regulations.

In particular, in terms of the changes to the Ministry of Correctional Services Act and to the Police Services Act, changes designed to provide for the naming of offenders who are released into the community, many details which will be dealt with by regulation make it difficult at this point to assess what the consequences of the bill would be.

We will want to hear from people about whether the regulations would allow for release of information regarding persons within the correctional system who are out on parole, for example, mandatory supervision or electronic monitoring etc, or will it only allow the release of information for persons who've completed their sentences and all court dispositions? Those are areas that the government may have a sense of right now in terms of how far the regulations would go, but I think it would be helpful to hear from people who are presenting.

The other area that would be important for presenters to inform the committee of their opinion on is the nature of the protection they feel this provides to communities. Many of us have felt it is an important step to have the ability of naming offenders and of informing communities and ensuring that people have a sense of what's happening in their own neighbourhoods. There are some critics of this, however, who are concerned that it may give the public a false sense of security. There are some advocates against naming of offenders who believe it will drive criminals underground and that we might end up with less ability to appropriately track them. I'm not sure that's true. I think there are ways of addressing those concerns. But, again, these are areas it would be helpful to hear from presenters about.

In general, I think it is fair to say that it is an important step in addressing some of the coroner's recommendations, as my Liberal colleague has set out. It is, along with many other things that are left undone, one of the measures we can take to ensure that our communities are safer. In general we are supportive of the direction of the bill, although after hearing presentations we may want to make some representations that some of the details which appear to be left out, hanging for regulation, be actually brought into the bill so communities can be assured of the steps that will be taken.

1540

**Mr Bob Wood:** I would like to say that it is my view that there is much more to be done in the area of protecting the public from dangerous offenders. I see this as only one step among a number that can be taken. I think it is an important step, a step that will do some good. I hope we will hear today suggestions about regulations. I see that as an ongoing process, so I hope those who are here today will accept my invitation to have a continuing dialogue with the ministry as to what should be in those regulations.

I think this bill will enhance the safety of our families and our homes by helping us to identify dangerous predat-

tors coming into our communities. I think as well that it will make it more difficult for criminals to evade justice by the simple expedient of changing their name.

The bill is based on extensive consultations with police and with correctional officers, with the federal government and with other jurisdictions. Our province does need a strong and effective criminal justice system, one that enjoys the confidence of law-abiding people everywhere. This initiative will help to achieve these goals. It will give the police the tools they need to protect our communities and it will give our communities the information they need to protect themselves.

Under current legislation, police and correctional officers are limited in the information they can release to the public when a dangerous offender has completed his prison term and is about to be released. The only legislated authority for the release of information is the freedom of information and protection of privacy legislation. These laws prohibit the release of information unless there is a grave health and safety hazard to the public. Those sections are not designed to deal with the release of high-risk offenders, especially in cases involving sexual predators, child abusers and other violent criminals. We are all familiar with the public outrage at the inability of our laws to protect or even to warn the public in these cases. Law enforcement agencies are uncertain about their authority to release information in these circumstances and have asked for legislation that makes the situation clear. Obviously, public warnings are not required every time an offender is released from jail, but in some cases they are essential. I think as our justice system finds itself, these cases should become relatively rare.

Bill 102 will provide police and prison officials with the guidance they need to make that distinction and the legislative authority to share essential information with the community. The effect will be to warn our communities, when those warnings are appropriate, and to improve public safety.

This legislation involves no additional costs. It will not increase government expenditures by a nickel. It will have a very real effect in enhancing the safety of our communities and in frustrating the efforts of criminals who attempt to use a legal loophole to evade the scrutiny of the police and the community.

**The Chair:** Thank you, Mr. Wood. We have not used our total allotted time and we do have a few more minutes. Is there any other member of the committee who would like to make a short preliminary statement? If not, I understand that we do have our first presenter here.

#### COUNCIL OF ELIZABETH FRY SOCIETIES OF ONTARIO

**The Chair:** I would call upon Claire Price, executive director of the Elizabeth Fry Society of Ontario. Welcome, Ms Price. We have received a written submission from the Elizabeth Fry Society. I'd ask you to proceed.

**Ms Claire Price:** Thank you. I'm the executive director of the Council of Elizabeth Fry Societies of Ontario.



The council is a provincial membership association representing nine Elizabeth Fry societies in Ontario. Council works directly with women in conflict with the law and strives to increase public awareness of issues affecting our clients. We also provide member services to the local Elizabeth Fry societies. The local societies provide a range of services for women in conflict with the law, including halfway houses, other forms of housing, group and individual counselling and treatment programs, court programs, prison visits and relief planning assistance, among other things.

The Council of Elizabeth Fry Societies of Ontario has serious concerns about what we perceive to be the dismissal of the notion of privacy and the erosion of accountability checks put into place to prevent abuses by government institutions and agencies regarding personal information. We also deplore the continued strikes against the continued rehabilitation of offenders made by the increasing use of community notification.

First, we would like to raise the issue and question the constitutionality of the Ontario government using information gathered from criminal records, gathered on behalf of the federal government, for purposes other than that originally intended. At this point I would like to go through a couple of the proposals put forward in Bill 102.

First, it seems clear that section 3 and the proposed amendment to section 3 discuss the situation where if a woman has married, for example, and taken her husband's name, or if any spouse has taken their partner's name and decides after the relationship ends to revert to their original name, they have to go through a police records check. Obviously, this is going to affect more women than men, and we have major concerns about this and also the fact that they have to go through a police records check to essentially return to the identity that was theirs at birth in any event.

We have another major concern around the proposal that puts forward that there must be disclosure of every pending charge, and this is without there necessarily being a conviction registered. Although the law of Canada clearly states that there is a presumption of innocence, Ontario seems to be bucking that trend and presuming everybody guilty until otherwise shown. We also question the constitutionality of that proposal.

It is also not clear to us what is encompassed within the term "personal information." This term is not defined in the original Change of Name Act, nor is it defined in this bill. For example, does the proposed subsection 6(11) allowing an employee of a police force to disclose personal information about an individual for a police records check include information above and beyond that required for a police records check? This is not made clear by this bill.

Also, the proposed new section 7.1 now mandates the registrar general to run every name by the Solicitor General for potential information that would be included in a police records check. This is even where there are no reasonable grounds to suppose that there would be any pertinent information about an individual. In other words,

what the government of Ontario is saying is that any citizen who applies for a change of name is to be disbelieved initially and then it has to be proven otherwise. This not only speaks volumes about the government's trust in the citizenry but also speaks to its disrespect to the issue of cost savings. I take issue with Mr Wood's comments that this is not going to cost a nickel more. Obviously, this is instituting multilayers of bureaucracy, and it is going to require more resources to edit this information, to disclose it and to make the proposals in Bill 102 come to life. We take real issue with the fact that this is not going to result in any more cost output. It certainly will.

Also, we have concerns around what would be clause 8(1.1)(b) of the act, the proposal that allows the Solicitor General access to anybody else's records, and this is not necessarily the individual whose culpability is questioned. This could be anybody who applies for a change of name. Their information is open to be disclosed to the Solicitor General too.

Subsection 8(1.2) we believe is much too open to exploitation. This is the section that allows the registrar general, despite any other act, to provide information in the police records to any police force, ministry, agency or institution that in its opinion "should know about the change of name for law enforcement or corrections purposes." There is no definition of which ministries, agencies or institutions are included in this or may have access to this information. Also, it has not set out what the boundaries are for forming an opinion that disclosure of the information is necessary. Furthermore, what is meant by "law enforcement purposes"? That is so wide you could drive a truck through it. If the police, for example, have a reluctant witness and decide to use information gleaned from this process to persuade this reluctant witness to testify, is that for law enforcement purposes? This is not made clear under the act. Currently, I submit that kind of situation can come under this act, and that worries us greatly.

As for the proposed amendments to the Ministry of Correctional Services Act, subsection 10(2) of the act falls under the same umbrella of concerns, allowing anyone working in the ministry who is designated in the regulations — and we are not told what level of employee the government intends to designate in the regulations. Also, again personal information is not defined. What does "in accordance with the regulations" mean? That's not narrow enough for our concerns. Just about any disclosure of information can be justified as being in accordance with the regulations. Prisoners traditionally have been on the receiving end of blanket justifications for actions. Prior to this bill there were official mechanisms in place that allowed for some accountability around that disclosure, but now this right too is going to be taken away under Bill 102.

As to the proposed changes to the Police Services Act dealing with broad community notification of personal information about an individual, we strenuously oppose this concept. Already offenders are sometimes hounded when trying to reintegrate back into the community. These



are individuals who are often accepted by the broader community, but who for one reason or another attract the attention of a small but vocal group within the community that has objections to their return.

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This section allows the police to either begin a cycle of feeding out information or to feed into the negative cycle and often can result in disclosure of information that may even be outdated or alarmist. It doesn't provide for information such as when an offender has completed treatment programs and may in effect be somewhat of a different person coming out. It doesn't allow the community to know that information. It's alarmist in the sense of, "Here's a person who was in for this particular offence and you should be scared."

Ultimately, I agree with Frances Lankin's comments that this does tend to drive offenders underground. Certainly it creates a lot of pressure on the individual who's trying to rehabilitate back into the community. Traditionally, offenders are without the emotional strength to weather such a public storm. Members of Parliament may be able to do so, but these are people who don't have the same sort of personal resources. This creates a tremendous amount of pressure. They're already having a difficult enough time trying to get their lives together and become law-abiding citizens. This just imposes unbearable strain on top of that.

Obviously, in our submission, this doesn't contribute to public safety, because when you've got somebody who's under so much stress there's always a risk they may revert to behaviours which caused part of the original pattern of offending. So in our submission, this doesn't protect public safety, but goes some way towards endangering it. There's not enough accountability also in this proposed section. Again, the wording is too vague.

One of our biggest concerns, however, is the exempting of the disclosure of this information under subsection 39(2) of the Freedom of Information and Protection of Privacy Act. Currently, that section provides that institutions have to disclose to individuals where the information is going and the legal authority for collecting that information, and provide the name of somebody in the ministry who can answer questions about any concerns they have about the disclosure. That's gone now.

This information can be disclosed to just about anybody. But the individual in question doesn't have any right to know where that information is going, how it's going to be used or what's going to happen with it in any way, shape or form. It's yet another example of the loss of an individual's right over control of their own life.

In our information age, knowledge is indeed power. This bill allows for open disclosure of personal information with no checks in place, even to inform the individual about where their personal details are to be displayed. This, in our submission, is one of the greater abuses of power of government. This erosion of personal dignity will ultimately contribute to the decline of the province of Ontario as part of a civilized democracy.

The Council of Elizabeth Fry Societies does not support this legislation which contributes to the further abuse of individual rights.

**The Chair:** Thank you very much. Perhaps we could start with Ms Lankin. Do you have any questions?

**Ms Lankin:** Yes, I do. How long do we have, Mr Chair?

**The Chair:** About five minutes per caucus.

**Ms Lankin:** I really do appreciate the work you've put into the analysis of the bill. Your comments about sections being too vague I would supplement with a concern about too much being left to regulation and not having enough of a sense of what that regulation may require.

Do you have a sense of whether some of the concerns that you have addressed could be allayed if we had some more detail in terms of what the regulations were going to set out and/or whether we were able to import some of those regulations into the bill: some of the areas that are vague, some of the areas that require more restrictions in terms of who should access, and under what conditions, the information or what type of information should be released and whether or not it should have expanded issues, as you've indicated, like successful completion of a treatment program?

Is there a way in which we could still address the concerns of the coroner and their recommendations and many members of the public about some access to information on the part of the public, while trying to balance that in a better way with privacy concerns of the individuals?

**Ms Price:** Certainly I think I've pointed out my concerns in each of the sections in my written submissions. Tightening up of the wording would go some way towards addressing those concerns. There are some sections, though, that we have large problems with and would not support in any form. Community notification is one of the big issues for us. Also, a sort of blanket disclosure of information between agencies and institutions is far too open to abuse.

**Ms Lankin:** Can I ask you a technical question on that? You made reference to clause 8(1)(b.1). That was one of your examples of where the Solicitor General could access information from the Registrar General and there were not restrictions on it.

When I read that section, it sets out that this could happen where the Registrar General was advised under section 7(1) that the Ministry of the Solicitor General has information about the person whose name has been changed that would be included in a police records check. Is that not any kind of a safety on that broad power in your opinion in looking at that? It would have to be triggered in the first place by notification from the Solicitor General with respect to an individual and information that would be contained in a police records check.

**Ms Price:** I'm sorry. Are you referring to clause 8(1.1)(b)?

**Ms Lankin:** Yes.

**Ms Price:** My reading of that particular section is that it would allow the Solicitor General access to information concerning a different individual from the one in question.



**Ms Lankin:** Maybe we might be able to get some clarification at some point in time from the government on that, because I find the wording confusing myself looking at it, but in referring back to 7(1) and police record checks, it seems to have a bit of a control on it. But some clarity I think would be helpful there.

On the issue of community notification, can you tell me from your perspective and your involvement with Elizabeth Fry and of course with a number of your sister and brother agencies out there what impact you think that might have? I think some of the concerns that have been raised include that there may be certain people who have been released from incarceration or on supervision programs, even voluntary supervision programs, who may disappear into the community and not maintain that relationship as a result of wanting to find some privacy or wanting to not be exposed. Do you have a concern about the effect it will have on people's ongoing rehabilitation or reintegration into the community?

**Ms Price:** Yes, indeed. When you have intense public pressure on an individual, it makes it more difficult for them to participate in community rehabilitation programs, obviously, because of the attention it attracts from other offenders who may be in those programs, and additionally in trying to put the principles of the programs into practice in an everyday setting in the community. So essentially driving somebody underground does prevent them having access to rehabilitation programs.

That's a huge concern. Basically, it cuts off all support that there is already for them in the community, the links they may have. They're forced to sever ties with them and to be able to try to move away and forge a new life for themselves in a different community.

**Ms Lankin:** Is there any circumstance under which you think the community should have a right to know that someone who is a dangerous offender has been integrated into —

**Ms Price:** Ontario is dealing with offenders who have sentences of two years less a day, so you're talking about, generally speaking, offenders who are on the less serious end of the scale. It's hard to talk generally, but generally speaking, they are offenders who are lower-risk than federal offenders. There is not the same level of concerns as there would be about individuals who have a very high profile in the federal system: the Clifford Olsons, for example, of the criminal justice system.

We have a problem with the idea of community notification in that it does impede the offender's rehabilitation. I think we would have difficulty with the idea of a blanket notification. I understand that the public has concerns about some individuals, but our concerns are around how you put checks upon that process so it doesn't become the thin end of the wedge and become more of a subjective process where the police can decide, if they don't like somebody essentially, to put that information out into the community and to make life difficult for that individual. We have concerns around that.

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**The Chair:** We will now proceed to the government caucus.

**Mr Bob Wood:** If indeed we are going to proceed with the notification part of the law, can you suggest any way that you feel that should be limited in the statute?

**Ms Price:** I guess from the viewpoint of our organization we don't generally agree with the concept of community notification. There probably are informal mechanisms in place for the police to be able to supervise that person more closely in the community without them making it some kind of witchhunt, if you will, which it does become in communities. It already happens on a more informal basis that the police closely monitor the movements of that individual if it's an individual who is extremely high risk. As I say, in the Ontario system, I think there are relatively few of them.

I would advocate going along with that more informal supervision process. I think that's easier for the individual to reintegrate and for the community not to be unduly alarmed by that, but also for the police to provide some supervision and accountability.

**Mr Bob Wood:** We have a couple of days. I think there's a good chance there's going to be a notification provision in this act. You might want to think over if there's a way in which you would limit or constrain the notification that's permitted under the act. I'm not asking you to answer that now necessarily, but you might think that over, and please send us a fax if you see a way you think that should be constrained.

The second question I wanted to ask you: Would you give the offender a chance to look at the information that's going to be released before it's actually released, in effect invite their comment on it?

**Ms Price:** I don't have a problem with that. It's information about them in any event. It's information that they would presumably know. My concern around the exemption from the Freedom of Information and Protection of Privacy Act is that the offender is not notified that this information is going to be disclosed or where it's going or the nature of the information to be disclosed. I think an accountability check would be to allow the offender to know where that information is going and to whom it is going, and to give them a chance for some input.

There's also no appeal process built into this. Part of the problem with exempting something from the Freedom of Information and Protection of Privacy Act is that there is no appeal process essentially, so there's no way for that check to be built in there.

**Mr Bob Wood:** What I was coming to of course is that obviously there's going to be bad news in any of these releases. That's the purpose of the release. Do you think it might be useful to draw any mitigating factors to the attention of the police before they do a release?

**Ms Price:** Certainly I think it's important for the police to know the other side of the coin as it would be in terms of the offender having participated in and completed successfully treatment programs or counselling, what they have set up in the community as addressing any concerns

the police may have. There are a lot of things on the other side of the balance sheet that should be taken into account. If there's going to be community notification anyway, it's certainly important to know both sides of the story and not have it be a one-sided tale.

**Mr Terence H. Young (Halton Centre):** About two and a half years ago in Burlington — I represent the northern part of Burlington — a convicted paedophile was rereleased into the community. I found out through a conversation, through community policing, with police officers. We had no notice in the community, and the Halton Regional Police had the presence of mind to have two officers follow him, at a cost of I guess \$6,000 a day. He was rearrested inside a public school. I just thank God that they didn't go take a lunch break when he went into that school, because what often happens is that there's an assault, there's a kidnapping, and then to cover up the crime, there's a murder.

I'm trying to understand how you can balance the terror of that situation and the reality against the convicted paedophile's stress. Surely you have to recognize that everything we can do to protect children, including their parents' awareness, is critical. I don't understand how you can balance that.

**Ms Price:** I think you have to look at the general concept of community notification, and certainly there are going to be cases that are going to raise more public concern than others. A convicted paedophile is one, as opposed to somebody who is in on a fraud offence for example, but the concept is still there that notification can be used for either offender. So our organization has to approach it from a general concept point of view firstly.

As I said to Mr Wood, certainly there are informal procedures in place, which you've mentioned. The police did monitor this individual, and this individual was stopped in his tracks, so to speak. I think that's appropriate supervision in the community, and we don't have a problem with that supervision in the community. It's just the way that it's dealt with in the community. It often becomes a witch-hunt rather than a fair process where the offender is monitored and allowed to continue in treatment programs and in resuming a life.

**Mr Ramsay:** Ms Price, thank you very much for your presentation. In the earlier part of your presentation, you questioned the parliamentary assistant's assertion that this would be a low-cost program. I'd like then to direct my question to the parliamentary assistant: Do you have a sense of the cost? Have you done some studies of this? What's the basis of you making the statement that this should be a low-cost program?

**Mr Bob Wood:** I'd prefer to answer that very briefly now, and in more detail later. We think if it's properly set up and the costs indeed can be charged to those applying to change their name, the net effect will be virtually and effectively nothing. It does not have to impose significant new costs on the government. We think that, net, it will end up at nothing. There are also certain advantages to a freer flow of information that may actually cut costs. We

can't say for sure, but on balance we're reasonably confident that there will be no net cost.

**Mr Bruce Crozier (Essex South):** Good afternoon, Ms Price. How long have the Elizabeth Fry societies been in existence?

**Ms Price:** All the individual agencies are autonomous and they've been up and running for different periods of time. The longest-running one has been running I believe since about 1934.

**Mr Crozier:** So for some time, obviously.

**Ms Price:** There's a long history.

**Mr Crozier:** Then the process of education has been going on all this time, public education, which is really what you are about?

**Ms Price:** That's correct.

**Mr Crozier:** That's one of your responsibilities.

I understand the points that you brought up today and they make me think about it, because what applies to a criminal also could apply to me. I may not have a criminal record but, as you've pointed out, you have to go through that process anyway. Gosh, I can't think of a thing, but there may be something that each of us as individuals doesn't particularly want to be public knowledge.

I can understand the concerns you've raised today. How do you feel about the fact that my sense is that the general public would support this bill because it appears to protect the public as a whole? Do you understand why the general public may support this and not quite understand, even after 60 years of public education, where you're coming from?

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**Ms Price:** I think you've made the point, in that increasingly the public, however the public is defined, is involved in a lot of fear that comes out of, I think, a small but very vocal segment of the population who are active on these issues and they're often unaware of the backgrounds of individual offenders, the efforts they've made at treatment and rehabilitation and any plans they might have in the community, or why people get involved in the criminal justice system in the first place.

Part of our work is educating the public about that, but in the last five to 10 years, probably 10 years or so, it's been increasingly difficult to fight the tide of public fear. I think it largely stems from unawareness about a lot of the issues involved. We'll continue to try and educate the public about where offenders come from and how they try and make their lives better and fit in better with the larger picture, but it certainly is difficult these days.

I understand where the committee is coming from in terms of probably identifying a lot of that public fear, but I don't think the answer is stepping in with very heavy-handed legislation to appease the public on a short-term basis with things that are not going to effect a solution to the longer-term problem.

**The Chair:** Ms Price, thank you very much for your thoughtful presentation.

Could I request of the legislative counsel that members of the committee be provided with section 3 of the Change of Name Act and any other applicable section of that act



that might govern when an election can be made by an individual to change his or her name.

**Ms Lankin:** On that point, I actually had a couple of questions along the same line that I would like to add at this point.

I would be interested in information from both the registrar general and the Solicitor General with respect to the expected costs associated with these police checks and a sense from the registrar general of what the volume of activity in any given year is going to be and what the cost would be.

I have a sense from what the parliamentary assistant said that the intent would be to spread those costs across the users of the system; ie, that those people who make application for name changes might see an increase in the user fee for that service.

I would also like to know if the registrar general has any statistics broken down in terms of the profile of people who ask for name changes and what the reason given most often is. I don't know what information they collect.

What I'm getting at is, I'm wondering if there will be a minor increase or a substantial increase in costs and whether it will have a differential impact on any particular group of citizens. For example, if the largest users of the name change provision are women who are going back to a maiden name, there could be a very negative impact of this legislation on a group of people inadvertently. I'd be interested if, between the two ministries, we could get a bit of a profile of the use of the change of name, a sense of the volume and any statistical breakdown, an estimate of the cost of the police record checks that will be imposed as a result of this legislation and what that might mean on a per-user basis.

**The Chair:** You've asked a question of both the Solicitor General and Mr Wood. Mr Wood, are you taking the question that is asked of you under advisement?

**Mr Bob Wood:** The answer is, yes, we will attempt to get that information for you to the extent that it's available. The registrar general's office is of the view that any increased costs will be minor. Whether we can put more definition on that, I don't know. We'll find out.

**Ms Lankin:** Thank you.

#### JOHN HOWARD SOCIETY OF ONTARIO

**The Chair:** Our next presentation will be the John Howard Society of Ontario, Mr Bill Sparks, acting executive director. Welcome. You have provided the committee with a written submission. I'd ask you to proceed.

**Mr Bill Sparks:** My name is Bill Sparks. I'm the acting executive director of the John Howard Society of Ontario.

The focus of this submission is on the proposed amendments to the Ministry of Correctional Services Act and the Police Services Act. The primary concern of the John Howard Society of Ontario is the release of personal information about offenders through the use of community notification and the impact of this legislation in continuing

and even expanding the practice of community notification.

This submission focuses on the current use of community notification, why the release of identifying information about offenders through community notification is ineffective as a strategy of public protection and what alternative strategies should be adopted to minimize recidivism of the serious offender.

The issue of community notification is often described as relating to a choice between public protection and civil liberties, but the position the John Howard Society of Ontario has consistently taken is that the issue of civil liberties is not relevant unless the effectiveness of community notification as a strategy of public protection can be established.

With regard to the current use of community notification in Ontario, the Community Safety Act will confirm and likely expand the current practice of community notification. Within the past few years and with increasing frequency, public alerts concerning the release of an offender have been issued by some police services in Ontario. The chief of police ultimately decides whether to issue an alert and, where it has been issued, has done so with the understanding that current legislation gives him or her the authority to release the information. Generally, the media have cooperated in publicizing the alert issued by the police, ensuring wide distribution through the community. A case in Kingston where the media released the information after the police decided not to do so, however, points out that the police do not have total control in the process. As well, some media outlets have expressed concern about involvement and have indicated they will refuse to publicize some or all of the information.

Typically, the public alerts by the police have been issued for offenders released from a federal prison at the end of their sentence, usually for a sexual offence. Alerts issued about offenders under provincial jurisdiction have also occurred, even though these provincial offenders, on a community sanction or released after serving a sentence of less than two years, have been judged by the courts as lower risk and the offence as less serious than those given a federal sentence. The naming of offenders under provincial jurisdiction is likely to increase as this proposed legislation will permit provincial correctional officials to release identifying information to the public.

The issuing of public alerts by police has largely been a response to the impact of detention, particularly as the provisions of the federal legislation related to the release of offenders convicted of sexual offences. Up until 1987, all federal offenders who were not granted parole were released on mandatory supervision at two thirds of their sentence, or at a later date if they lost some time because of some breach of the prison rules. They returned to the community on their release under supervision until the date of the expiry of their sentence. Supervision required that the person remain in the area and report to the parole officer and to the police. Other conditions such as participation in a treatment program may be imposed. A breach



of these conditions could mean the individual's return to prison.

A period of supervision allows officials to know the whereabouts of the individual and to have some measure of control over the activities of that individual, as well as the authority to intervene should there be indications of problems.

In 1987, in response to growing public criticism about offences committed by individuals on mandatory supervision, Bill C-67 was passed, and later amended, expanding the criteria, giving the National Parole Board the authority to detain individuals to their warrant expiry date if they are found to be "likely, before the expiration of their sentence according to law, to commit an offence causing death or serious harm to another person, a sexual offence involving a child or a serious drug offence." If one is detained in prison until the end of his or her sentence, that individual is released under no form of supervision.

While the intent was to use these detention provisions in a small number of exceptional cases — 50 to 100 per year was the estimate at the time — there has been a steady increase in the number of cases where detention has been ordered. In the year 1995-96, 483 prisoners were detained in Canada under the authority of the National Parole Board, almost five times greater than the largest projection made at the time of the passage of the detention provisions.

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With few exceptions, these 483 individuals will be released at their warrant expiry date, on the last day of their sentence, and therefore under no form of supervision. All of these individuals will leave prison with the label "likely, before the expiration of their sentence according to law, to commit an offence causing death or serious harm to another person, a sexual offence involving a child or a serious drug offence." Research from Correctional Services of Canada shows that sex offenders are more likely to be referred for detention, and of those referred, more likely to be detained. Increasingly, because of the detention provisions, sex offenders deemed to be likely to reoffend are being released under no form of supervision.

Generally, police are relying on the assessment of the National Parole Board that the individuals detained represent the highest risk of serious reoffending to justify the use of public alerts in particular cases. A recent study by the Correctional Services of Canada, however, showed that those who were not detained and released at their statutory date, two thirds of their sentence, had a higher reoffence rate than those who were detained. The study concluded, "Therefore, it would appear that the selection process for detention has not resulted in the highest-risk offenders being detained."

With regard to community notification as a strategy of public protection, some points to consider:

We do not feel that the naming of offenders constitutes an increase in public protection for the following reasons. The simple fact of naming offenders in many cases results in them hiding and/or moving to a new community. By virtue of going underground, the person is forced to live

the life of a fugitive, and police have less opportunity to keep tabs on his or her activities and whereabouts.

Because people avoid being the centre of controversy, they will almost inevitably end up living in communities where they have anonymity. The communities where the named offender eventually settles are likely to be those which offer no personal support by way of family or the advantages of a person living in a community where he or she is known. Many individuals appear to be gravitating to major downtown areas in order to achieve anonymity, even though this environment often presents the person with significant difficulties.

The research with respect to sex offenders in particular and the relapse prevention strategies associated with reduced recidivism, with reduced reoffending, recognize that high levels of anxiety, fear, persecution and other stresses such as the inability to find work or a place to live are likely to increase the propensity to reoffend.

The fear of all inmates that they will be identified after release means that they may not make plans for post-release relapse prevention programs or community settlement because they fear that in doing so they will simply identify their potential destination. Some inmates are reluctant to discuss release planning with their case management officers in the institutions or anyone else.

Community notification works against those factors that we know can reduce reoffending, particularly with respect to sex offenders. Treatment in the community after release is vital and, for some, access to long-term treatment is necessary. Public protection is not served by policies and practices that undermine treatment in the community. Further, community notification is not an effective strategy of public protection because:

It is unlikely, particularly with the increasing number of offenders being identified, that many individuals would recall a photograph and identifying information. In Seattle, Washington, last year there were 87 community notifications, more than one per week.

If the individual feels compelled to move because of the notoriety, community notification merely transfers the risk to another community or may even increase the risk that the individual poses. The police may lose track of the individual and therefore lose the opportunity to be aware of his activities. The person will leave behind family and community supports and any treatment programs he may have been attending. The individual likely will be reluctant to seek out help, support or treatment for fear of being named again.

Other points to consider:

Individual citizens may well take vigilante action and subject themselves to criminal charges resulting from the heightened emotions and fear arising from the knowledge that a serious sex offender lives in their vicinity.

Other people may be victimized by virtue of being misidentified or being related to the named individual.

It may become necessary to use police resources to protect the offender and the relatives of the offender from a hostile public.



Police and delegated correctional authorities may be more subject to criticism by virtue of starting a process premised on public protection, which will inevitably be seen as incomplete. Where sexual offences do take place, arguments may well be presented that police and correctional authorities were negligent in not giving adequate warning.

With community notification, more is lost than gained in terms of public protection. Some recent illustrations: The points that we have made with respect to the costs of community notification are not conjecture but are based on actual experience. Quoting from media reports of incidents relating to community notification, we find that:

"The mother," age 71, "of a 33-year-old sex offender says that she has been threatened with death and forced to leave her apartment building since police issued a bulletin warning Metro residents that her son was leaving prison."

"The wave of vigilante activity set off in England," by public identification, "led to a pensioner with senile dementia being beat up and covered in blue paint by a gang that mistook him for a convicted sex offender. In another mishap, a burglar who was ordered to wear a tagging device was brutally attacked after a news story indicated that a known sex offender was wearing a similar tag."

In Washington, "The state stopped giving out detailed, often graphic, information in 1993 when a man's house was burned down."

"RCMP are warning residents of this northeastern BC community that a convicted paedophile run out of at least three other towns is living among them."

"Three months after a known sex offender fled the Waterloo region because his name and photograph were broadcast on TV, he was charged with beating and sexually assaulting a 17-year-old in Kingston.... After the publicity" — in the Waterloo region — "the man moved to Toronto and Metro Toronto police were notified. Earlier this month, the Waterloo regional police received a tip that the man had moved to Kingston." The Kingston police "said Waterloo police told his force that the man was in the Kingston area on the same day that the alleged offence took place. 'We took steps to find him and that's when we learned about this assault.'"

A story described in another recent media report tells a predictable tale:

"A man released after serving his full sentence for sexual offences against children returned to his home community in the Maritimes where he has family. He was the subject of a public alert by the police. After less than one month in an apartment, he moved when the media published his name and address. He stayed briefly at a motel and then fled when reporters discovered his whereabouts. Police say that he is now in a major city far from the Maritimes."

Consider this press release from the John Howard Society of Thunder Bay, March 12, 1997:

"Nine months ago we had a similar situation when the police released the photo ID of a sex offender who had come to settle down in his home town.... The publication mounted obstacle after obstacle in the reintegration of this

person in the community. He was kicked out of several apartments, rooming houses and motels. He was kicked out of a college and a school and is now reconciled to studying in his room with a tutor and is following a correspondence course."

I spoke with the executive director of the John Howard Society of Thunder Bay today regarding this story, and he indicates that this person has now been lost track of and is supposed to have moved to another city.

Perhaps the most shocking story is the recent story of an Ottawa man who was named by the police. After being forced to move because of his notoriety and hounding by the media, his whereabouts unknown for a time, he was assaulted by an individual who recognized him, and the assault was photographed by a local newspaper. His family members have been subsequently harassed and they have publicly pleaded to be left alone.

But what is the alternative if community notification does not increase public protection? Rather than pursuing policies and practices that provide only illusions of public protection, the society believes that an alternative strategy should be implemented, one that is based on research related to what works to prevent reoffending. The elements of this strategy are:

(1) Gradual release supervised as a statutory part of every sentence;

(2) Community-based treatment and residential services which are available, specialized, professionally operated and adequately funded;

(3) A focusing of community supervision and treatment resources on those with the greatest need and who pose the greatest risk; and

(4) An end to those policies which undermine the gradual release process, such as detention and community notification.

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While we are opposed in general to community notification of released offenders, it should be noted that we have not objected to the release of identifying information under the following circumstances:

(1) Where the person is a fugitive, ie, where the police have sufficient evidence to lay charges and are unaware of the person's location and a public alert is issued; and

(2) Where specific individuals have been identified as victims, the police should divulge the information only to those individuals who are at risk of being victimized.

Our recommendation: We urge the committee to recommend that the amendments to the Police Services Act and the Ministry of Correctional Services Act, which will expand the use of community notification, not be passed and that action be taken to end the current practice of community notification by police, except in the circumstances described above.

The costs of community notification are clear: increased levels of public fear; vigilantism; the victimization of families of named offenders; and reduced opportunities for reintegration of the offender into the community, which contributes to reducing recidivism and ultimately makes us



safer. What we are buying is merely the illusion of public protection.

**The Chair:** Thank you very much. We only have three minutes per caucus.

**Mr Young:** Just one question: I'm still trying to understand this balancing of rights and privacy etc. You say that where specific individuals have been identified as likely victims, you agree that community notification is all right, so I assume you agree that the safety of the individual supersedes the privacy of the convicted paedophile. Yet we know that with many offenders there likely will be a victim. We may not know who it is. We know some offenders even put themselves back in prison because they know they will reoffend. So there will be a victim. When we know who the victim is, you agree that we should notify the community, but when we don't know who the victim is, you don't want to notify the community. I don't understand that.

**Mr Sparks:** We're saying that first of all public identification is not necessarily a strategy for increased public protection. In fact, if you don't have identifying information that there are specific victims involved here, then you very well may be increasing the propensity for future victims if you go against the "what works" literature, against what the research is, against the community supervision and the police being able to keep tabs on the person.

**The Chair:** Thank you. Mr Wood.

**Mr Bob Wood:** Assuming –

**Ms Lankin:** You cut off his answer.

**The Chair:** I thought he was finished. Were you not finished, sir?

**Mr Sparks:** I'm fine at the moment.

**Mr Bob Wood:** Assuming that we are going to proceed with the notification provision, and that's a fairly good assumption, would you give the offender the chance to comment on the information that is going to be released before it's released?

**Mr Sparks:** I haven't looked at that in detail at all. We are against the Community Safety Act amendments being proposed.

**Mr Bob Wood:** I understand that. I'm saying to you in a nice way that we're going to proceed with it, so we're going to accept that particular point of view. I'm inviting you to comment on whether or not – I know we're out of time now, so you may want to think about this. My executive assistant is behind you and we'd be happy to hear your answers later. We're probably out of time now. But I'd like you to address that issue and tell me whether or not you think there would be any merit in that.

The second issue I'd like you to address: Is there a way in which you think the notification should be limited by the statute? If we are going to go with notification, would you limit it in the bill? I think, unfortunately, we probably have no time for you to answer that right now, but I invite you over the next 24 hours to give that some thought. Give us a call. Geoffrey Hale would be glad to give you his card so you can give us a call.

**The Chair:** Yes, Mr Sparks, if you wish to put in a further submission, the committee will receive it if it is sent to the Clerk.

**Mr Ramsay:** Thanks, Mr Sparks, for your presentation. You make a very good point on about the third page of your presentation where you talk about what is the alternative and you talk about gradual release, treatment and supervision. It is interesting to note that while you say the government is putting on this bill to give an illusion of public protection, it is true that at the very same time government has cut the community supervision programs that are very important in our criminal justice system. We have the examples of the community resource centres, the halfway houses and the community supervision programs being cut by 50%, from \$4 million to \$2 million.

I believe some of that is still under negotiation, but you make a very good point, that we probably put the public at greater risk by cutting out these programs and no longer funding them, while we tend to go to this sort of program that gets a lot of community satisfaction. As you can tell from around this table, all the politicians are feeling the same sort of community concern about their safety and there's general support for this legislation in principle. But I think it's fair to say that all of us should be demanding of this government that we don't gut all the other community supervision programs that help the offender reintegrate into the community. I think we have to keep that fight up and I'm glad you made that point in your presentation.

**Mr Sparks:** I think the only comment to that is that what works in correctional effectiveness is known. Community supervision works and it reduces recidivism, so we need to follow what the research is rather than to go with public fear.

**Ms Lankin:** I think your presentation, similar to the Fry presentation, is very thought-provoking. I am disturbed. As someone who generally supports a bill that is intended to increase public safety, I am quite disturbed when I hear experts in the field say that there are certain provisions they think are going to run counter to that and have an opposite effect. I'm even more disturbed when I hear a parliamentary assistant at public hearings, where we're supposed to be getting input from the public, the government that is supposed to be listening, say, "We're going ahead with it anyway, whatever you think." But that's what we're getting used to.

There are two specific areas I wanted to ask you about, leaving the Change of Name Act, because I think there's more general consensus around that, while there are some concerns about how it is administered and the breadth of checks etc. On the notification, you raise the point about provincial offenders. I spent several years working as a jail guard in the correctional system in Ontario and I don't recall a time in which there was someone I dealt with, at the Don Jail in particular, where I thought it would have been appropriate for any kind of community notification.

Mr Young speaks often of the paedophile, and I think that's the person we are most, as a community, concerned about because we're concerned about kids. Those people, once convicted and sentenced, don't do two years less a



day. They do penitentiary time. Is there any way you can enlighten us in terms of what you think the Ministry of Correctional Services Act provisions would do or do you think they should be scrapped altogether? Irrespective of your opposition to the general notion, looking between federal and provincial jurisdictions, is there a need for the Ministry of Correctional Services Act to be contained within this bill?

**Mr Sparks:** I can't see it. I can't see that authorizing provincial correctional authorities to release the names of people coming out of provincial institutions is going to provide anything more than the illusion of public protection. It should be absolutely to the contrary until we know what works.

**Ms Lankin:** Perhaps I'll ask the parliamentary assistant why the MCS act is included here. I heard some scornful remarks across the way, but genuinely from my experience, which is real experience in the system and not just as a correctional officer, but as a temporary absence program coordinator and working with the release of prisoners, I can't imagine a circumstance in which I would have thought that there was an appropriateness to notification with respect to provincial offenders. Why is this being included in your bill?

**Mr Bob Wood:** We think there may be some rare cases where it's necessary and we want to err on the side of public safety, is the bottom line.

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**Ms Lankin:** The problem is, without knowing what you're talking about, because it's all being left to regulations, we really have no idea whom you're even thinking of as an appropriate candidate for release of information. Do you have any draft regulations under this section that might give us a better idea?

**Mr Bob Wood:** I don't think any are drafted at the moment.

**Ms Lankin:** Who are you thinking of then? Who is a candidate?

**Mr Bob Wood:** I'm supposed to answer your question, but maybe you'd better ask it first. Let me make sure I know what question you're asking.

**Ms Lankin:** Who is the target criminal offender in the provincial jurisdiction you have envisioned might be appropriate for this kind of release of information?

**Mr Bob Wood:** You can have dangerous people in the provincial system, those who are known to be dangerous, but the evidence before the court did not justify a sentence of more than two years less a day.

**Ms Lankin:** For someone who perhaps in the past has done federal penitentiary time but is currently serving a sentence for probably a more minor criminal offence — I don't know, it could be anything, passing a bad cheque or something — because in the past they have been determined to be a dangerous offender, that provision for notification would kick in again, even though the current life and the current crime and the current sentence didn't, by community standards, warrant labelling them as dangerous enough to be in a penitentiary.

**Mr Bob Wood:** That's a possibility. The other possibility is that the person is known to be dangerous but the sentence they got was two years less a day or less.

**Mr Young:** Plea-bargaining.

**Ms Lankin:** Who makes that determination now?

**Mr Bob Wood:** The court has to make it.

**Ms Lankin:** No, no, somebody in corrections. Who in the correctional services system in Ontario, these designated people — we don't know who they are — who are they going to be and on what basis will they make a determination that someone who was tried, convicted and sentenced under the justice system is more dangerous than what the justice system determined and therefore there should be notification? It worries me about the potential for abuse.

**Mr Bob Wood:** I guess we're out of time.

**The Chair:** Excuse me. This is the time for hearings. If you want to pursue that at the end of the day, once our presenters have made their presentations, that may be —

**Ms Lankin:** Thank you, Mr Chair.

**The Chair:** I thank you for attending here today, Mr Sparks.

#### CANADIAN CIVIL LIBERTIES ASSOCIATION

**The Chair:** Our next presentation is the Canadian Civil Liberties Association, Mr Alan Borovoy, general counsel, and Stephen McCammon, associate counsel. Welcome once again, sir.

**Mr Alan Borovoy:** Thank you once again. At my left and your right — I'm speaking physically and not politically — is my associate Stephen McCammon.

I will launch right into the discussion, since I know there are time constraints. The main problem, from our point of view, with this bill is that it asks the public to buy a pig in a poke. It simply delegates to the government the power to decide by regulation what personal information may be disclosed, to whom it may be disclosed and under what circumstances it may do so. It contains no guidelines, no limits, nothing — whatever the government wants to do.

Even if there are MPPs here who are disposed to trust this government with this power, what we have to remember of course is that this is going to apply to all succeeding governments as well of no matter what stripe or what character. If this is enacted, it will remain as is until it is repealed or amended, till the end of time for any and all succeeding governments to use or misuse as the case may be. We would think it is most unreasonable to repose this level of trust in governments as yet unidentified and even unknown. That, from our point of view, becomes the key problem.

We are aware that there has been some discussion, I think it was on second reading of the bill, that this was designed as what a lot of people have in mind is the situation when a paedophile or other dangerous offender may be coming out of the penitentiary, coming out of a jail and there's some concern as to what are the police powers to



disclose that information to various members of the public. Let me say for the Canadian Civil Liberties Association that from our point of view this is a perfectly legitimate concern — of course it is — but nowhere does the bill mention these circumstances or any other circumstances. This is not the kind of thing that should be left merely to regulations.

The statute should set out at least the broad parameters within which this kind of power has to be exercised. Of course there can be regulations dealing with details, but there has to be much more indication in the statute itself. In our view, personal privacy is too important a value to warrant such cavalier treatment. So the statute, in our view, the bill, should be amended in order to indicate what kind of information and what kinds of circumstances we're talking about. It should also specify that the amount of information to be revealed and the number of people to whom it's to be revealed should be no greater than is reasonably required to protect members of the public from serious bodily injury or serious assaults on their persons. The statute should say that.

In addition to that — that's what it ought to say from a substantive point of view — it should also not repose in the police or in correctional officials the unilateral power to determine in specific cases how to apply this power. Correctional officials and police are under enormous pressure to provide protection to the public. In recent years we've even seen some indication that they may be vulnerable to lawsuits. That being the case, it's understandable, particularly with the police, that they are likely to inflate dangers to public safety and correspondingly neglect the interests of personal privacy just because they're going to feel the pressure to be extra careful so they're not vulnerable.

In fact, we look at a case a couple of years ago, when a prisoner was about to be released on parole. I think he was a paedophile in one Ontario community. The police gave the information with a picture to the newspaper and the newspaper published it on page 1. The prisoner decided not to accept the parole and stayed in jail longer because he was afraid to go into the community with the mark of Cain on him.

We might very well ask the question, was the public safer as a result? Which way is the public going to be safer: if the prisoner is released earlier, subject to restraints and supervision, or if he's released later, subject to no restraints and no supervision? Why, in any event, do we have to choose between putting his picture on the front page of the newspaper and alerting nobody? Those are not the only two alternatives.

As a result, we recommend that the bill ought to be amended to provide that in specific circumstances not the correctional officials, not the police, but the courts should have the power to determine what information will be released and to what categories of people in specific cases.

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This is the kind of power we ask the courts to exercise all the time. They are in a much better position than the police, subject as the police are to these pressures, to

balance the interests of public safety on the one hand and personal privacy on the other hand. We are more likely to get a reasonable balance struck if judges make that decision than if police do.

As a result, and this will then summarize the points made, we recommend that you amend the bill to provide a more reasonable indication as to what the circumstances are in which this power is to be exercised, that it provide that there be no greater disclosure of personal information than is reasonably necessary to protect members of the public from serious injury and that you provide that the decision to be made in specific circumstances be made by the courts on warrant applications and that apart, of course, from imminent perils, emergencies — imminent perils are another story — but apart from imminent perils, the courts make those decisions and not correctional officials or the police, all of which is, as always, Mr Chairman, respectfully submitted.

**The Chair:** Thank you very much. We have five minutes per caucus.

**Mr Ramsay:** Mr Borovoy, thank you very much for your presentation. It's very valuable to have you, as you always do, come before our committee and offer your very valuable advice. In this case, I think you've really pointed out an oversight by both the government and, in my case, an opposition critic whereby we would allow this to be set by regulation. I really hadn't put my mind to it as well as I should have. You make a very good point here, that we should spell out exactly when this act would be enacted in statute and not just in regulation. Probably with too much legislation nowadays much of the detail is left in regulation. Maybe some of the very best intent in a lot of legislation can somehow change when much of the content is left to regulation. This is a very valuable point.

I would ask you then maybe to suggest to us, if you would, in what types of cases this sort of notification to the public should be used and, in your suggestion, by the courts to the community.

**Mr Borovoy:** I feel no wiser than the members of the Legislature who participated in the debate. As for indicating the circumstances, if I read the materials clearly enough it appears that what was on people's minds is the situation when somebody is being released from jail and that person is considered dangerous to the community. Then I see nothing wrong with specifying that that's what we're talking about in the bill and not just anything at all at any time.

Then there's the other business, that it be no more than is reasonably necessary to protect members of the public, and thirdly, that the courts make the decision on warrant and not the officials themselves.

**Ms Lankin:** I truly appreciate your presentation. For me, you have hit the nail on the head in terms of my concern about the bill. When I spoke earlier in opening comments, I said I had a general disposition to support the thrust of the bill because I can think of the circumstances that Mr Young and others have brought up in which, as a representative of the community, I would want some notification of the public. But my concern was that I couldn't



find anywhere in the bill how that was going to be done and where that was going to be done. Too much was left to regulation.

I think what happens then is, when you have a debate about it, if you raise any concerns, you're accused of being soft on criminals and not wanting to support public safety when what we should be debating is not the hot button issue of public notification, but as legislators we should be debating the whens, the whys and the wherefores. There's a really important debate to be had there. I think your suggestions are excellent and I would support them.

What I would like to ask you technically is with respect to your third recommendation on the use of the courts for making that determination. I don't know enough about how the justice system would work. Who would bring forward the warrant applications? Where would they emanate from? What kind of a process would be put in place, how time-consuming, how costly? All of those sorts of things I think the committee would want to know if we were going to contemplate that kind of an amendment to the bill.

**Mr Borovoy:** Since I realize that cost is on everybody's mind these days, I would suspect that we're not talking about a big cost in any event because we're not talking about that many people who are going to fall into this category. The impression is so often conveyed from a newspaper clipping or story that it's a much greater problem than it is when it's usually just one or two cases that tend to come up. From that standpoint, I don't think we need to worry.

I would see it operating very much the way search warrants would operate, or electronic bugging authorizations. The correctional officials or the police — usually it would be the police — would make an application. They might want to make it through a crown attorney. They would feel the need to do it because they're on the front line to protect the public, so it would fall to them to take the initiative. They would have enough time because they would be alerted in advance that somebody's going to be released. Then they could prepare an application, go to a court, just as they go to judges now for search warrants, ask for a warrant and set out how broad they think it should be.

The other person might even have a lawyer there because he could receive notice — this isn't a secret — and they could then appear before a judge. I think we'd be talking about a pretty expeditious hearing. You wouldn't be talking about days and days. You'd probably be talking about, at the most, an hour or so, or something like that, and then the court would decide how broadly to issue the thing or how narrowly. He might say, "Yes, you can contact these people but not those people. It doesn't have to be on the front page of the newspaper, but you can contact these agencies," something like that.

**Mr Bob Wood:** I'd like to come back to the question of limiting what the regulations can say in effect and you modestly deferred to us, suggesting that we might consider what that should be, but I'd like to invite you to give me a little more substance. How would you change the statute

to give guidance and restraint to those who are drawing the regulations? Tell me what you would put in it, because ultimately of course that's what we've got to do. We'd like your view on that, if we could.

**Mr Borovoy:** That's fair enough, but I didn't realize that I might have to draft it right here on the spot.

**Mr Bob Wood:** I might emphasize, I'm not asking you to do that. I understand you can't do that. Give us the substance of what you'd put in it. How would you do it?

**Mr Borovoy:** Mind you, I should tell you I have done things like that before, so you better be careful.

**Mr Bob Wood:** So have we and they haven't always worked that well.

**Mr Borovoy:** I would think we might say something like, "Where it is believed on reasonable grounds that a person released from prison constitutes a danger to members of the public." — we can spell out what we mean by danger — "it is believed on reasonable grounds that this person, notwithstanding the fact that it's the end of a sentence, is likely to commit acts of serious bodily injury or some such words." Then there will be a power to reveal information about this person to members of the public. My drafting is somewhat declining at this point, but I think you get the idea. And a specification that "There will be no greater disclosures of personal information than is reasonably required to provide this protection and in any event an application must be made to the courts" etc.

1700

**Mr Bob Wood:** Let's assume we do not go the judicial route. What would you think about inviting comment from the person who's going to be released? Suppose we said, "We're not going to have a judicial process, but since you, sir, are about to be released in 10 days, we're informing you that we're going to make a release. Do you have any comment to make on this?" Let me just explain why I'm asking this question so you'll see my point. There's going to be bad news in these releases, for obvious reasons. There may be some mitigating factors that might change the story a little and we may not know some of those if we don't ask. I'm inviting you to comment whether you think that would be a good or bad idea.

**Mr Borovoy:** Off the top of my head, I would see no reason not to notify the person, but in fact I had that in mind when I suggested the warrant-granting mechanism to the court. The person could be given notice and could make representations through a lawyer or whatever as well.

Of course, I am pushing for that because I'd like to strike the balance. We realize we have a conflict of two values, both of which we want to uphold. Better somebody less committed to the front-line struggle, someone who can sit back and is freer of the pressures to which police are subjected. Then the judge could make that decision and certainly invite representations from the affected person.

**Mr Garry J. Guzzo (Ottawa-Rideau):** Could I inquire, sir, with regard to the judicial procedure — conducted in open court?

**Mr Borovoy:** Not generally. A warrant-granting usually isn't conducted that way.



**Mr Guzzo:** That's correct. You would not conduct this in open court, you would follow the procedures?

**Mr Borovoy:** I would think not.

**The Chair:** Thank you very much, gentlemen, for your presentation.

#### ST LEONARD'S SOCIETY OF CANADA

**The Chair:** Our last presentation of the day is St Leonard's Society of Canada, Ms Elizabeth White, executive director. Welcome. Members of the committee should have received a written submission and I'll ask you to proceed.

**Ms Elizabeth White:** Good afternoon and thank you. As always, we welcome the opportunity to take part in these hearings and to make comment on proposed legislation. We also welcome the invitation made earlier by both Ms Lankin and Mr Wood that we should turn our heads towards participation in the regulation process. We would note that good regulation does not make good legislation if the legislation is not appropriate to start with, and that's the concern we bring to you today.

Before I begin, however, I must note for the record my regret at the earlier comments of Mr Wood to Mr Sparks in stating that regardless of the input given, the legislation would go ahead. On behalf of those who are invited to comment on legislation and to take our time, it feels a trifle insulting to be told that the input is to be dismissed before being heard. I simply make that comment for the record and now I will continue to make my comments so you may dismiss them as you will after the fact.

The first point I would like to make has to do with the plethora of legislation we have been seeing lately to deal with high-risk offenders. It seems we turn to legislation in all instances to meet all needs. Federally, we now can track individuals for 10 years after warrant expiry. It's not that we're not paying attention to the very serious offenders who, though few in number, do exist in this country. The issue for the St Leonard's Society, which has worked with high-need, high-risk men for the last 35 years in transitional housing and community-based programming, is whether more legislation would be useful, whether this legislation would be useful or whether we are better off increasing community wellbeing and safety through the direction of resources to bringing up children safely, to preventing crime and to reducing recidivism. Given what our mission statement is, you might well guess where we fall on that one.

In addition, before turning to my written comments, I would like to turn briefly to the matter of notification. Knowing that it was being addressed by both the John Howard Society and the Elizabeth Fry, I did not focus on it in my written notes, but today it is clearly the focus of this committee.

The example used by Mr Young raised a very serious situation. However, the legislation alone would not necessarily avoid such situations. The incident itself was resolved by good policing, and good policing is essential to the safety of our communities, but you don't make legisla-

tion to address the "rare" incident, the word that was used by Mr Wood earlier, or to try by a sweeping net to get those very few people you might catch in that way; better to come up with programs and services that directly reach the target group you are concerned about.

I would also add that we found Mr Borovoy's comments to be very helpful and would offer our support to those submissions to this committee.

Turning to my written notes, it is our submission on behalf of the St Leonard's Society that the legislation will not appreciably improve the accessibility of the desired information, that it is excessive in its powers and that the resources involved in its implementation could be more effectively utilized.

I'm turning my comments to three areas: target group, utility, and the fiscal and human costs because you can't consider the one without the other.

Simply put, if the intention of the applicant for a change of name is to deceive, why would they undergo the registration process for a change of name? It's a point of contact with authority that one might be expected to avoid, even under the current disclosure provisions in the act. It's easier to build an identity with documents obtained illicitly and less likely to result in unwanted attention.

We've already noted in the committee hearings today that a great many people would be caught up in this because of a domestic change. That's a very gender-biased impact on women and one that should be avoided if at all possible.

Also, the comment that I make in this section is about people avoiding going for a change of name because of fear of an embarrassing public situation. We're turning a lot in this province and in this country to using shaming as a way of dealing with those who have offended against us and against our laws. It would be most unfortunate to continue to augment that by using shaming devices in civil proceedings such as a change of name.

There are no limits set as to which agencies disclosure may be made, as there is no test of the reasonableness of the opinion of the ministry staff. Further, there do not appear to be any checks and balances on the use of the information other than the very vague — I think Ms Price said you could drive a truck through it — "for law enforcement or corrections purposes."

In the absence of clear definitions and legislative guidelines accessible and clear to all, this provision is subject to abuse and uncertainty. We are discussing very personal information and its spreading by persons unknown to the individual in ways and times and to individuals unknown to the subject individual. We submit that there would not be a good reason that an individual should not be informed of the state's involvement in such an exercise.

The vast majority of individuals who have criminal records or are charged with same, and we do note they are presumed innocent during the pending period before those charges are heard, have neither the financial resources nor the inclination to undergo the bureaucratic procedure of formally registering a change of name. Given that user pay



is now going to be part of the whole system, it becomes even more unlikely. The cost for a change of name has been a certain amount; it will clearly go up if you're paying for all the additional checks.

It would be very interesting to the St Leonard's Society to be informed of the degree of the problem which the legislative drafters have intended to address. We are unaware, through anecdotal or other sources, of significant use of the provisions for change of name as a means of hiding one's identity or evading detection.

**1710**

Usefulness of the provisions: If the purpose of this bill is to improve law enforcement investigations before the fact as well as just after the fact by expanding the provisions of a civil proceeding, we would suggest that the existing tools of the criminal system are adequate. By and large, the information collected for the purposes of the change-of-name applications is not particularly useful in the criminal justice context, but it is intrusive in nature when taken out of the context for which it was collected. We submit that the invasion of privacy aspects outweigh any potential utility.

Current technology is most effective in immediate identification of individuals in criminal circumstances when a criminal investigation is under way. We're all well aware of how much fingerprinting and DNA are being used in the criminal justice system and how immediately accurate they are. A name being presented is essentially irrelevant for identification purposes. As you speak, you can change your name. Technology that has been developed ensures it's almost impossible for an individual to hide from legitimate inquiries of our criminal justice system.

On the other hand, if the purpose is to augment a mechanism to ensure that individuals are tracked through the community regardless of their names, this means seems cumbersome. We have effective monitoring for people under bail. We have effective monitoring for people on early release. It's difficult to conceive of ways in which the present provisions would enhance that active involvement, that dynamic involvement with an individual as they proceed about their business in the community. To me, it's even less apparent how these provisions would affect the situation of a prisoner.

Turning to cost, the wholesale dismissal of the Freedom of Information and Protection of Privacy Act protection constitutes an unwarranted expansion of the powers of a very broadly defined group of individuals in the employment of the government to handle personal information and publish it in the absence of an individual's knowledge. The essence of this type of action, in our opinion, is that the citizenry is not to be trusted, that someone else will manage our affairs. We as individuals don't need to know where and how our personal information is being disseminated. Worse still, it suggests that we're not to be trusted as to our motives for undertaking essentially procedural changes in our own lives, and we need not know what steps our government is taking to protect our fellow citizens from us.

This type of legislation encourages the mistrust of one another that leads to a society built on fear. St Leonard's position is that we have enough of that type of concern in our society and that it is unwarranted. We are essentially a safe society and our endeavours should be to counter the proposition that we are an unsafe society, not to further it.

This has the earmarks of legislation being drafted to cover a very minute group of individuals who may seek to evade criminal responsibility and liability through a change of name. As previously stated, the majority of those involved with the criminal law have neither the resources nor the inclination to do so. The legislation, therefore, supports the creation of a very broad power to remove the privacy rights of an individual for no identifiable good.

We believe there will definitely be a fiscal resource issue to be addressed by the various government players should these steps be implemented. Mr Wood noted that it would be very minor. But without seeing those regulations, without knowing how you're going to do this, without knowing what's entailed with legislation that is this vague, I don't believe, sir, respectfully, that you know that to be the case. I fear that without a tight system from the top we can lead to additional expenses underneath that are hidden and will not further the good that is being aimed for.

It is the submission of the St Leonard's Society that the resources that will be expended, no matter how minor they are, would be more effective and provide a greater degree of community safety if put at the provision of appropriate services for individuals in conflict with the law to enable them to live crime-free in the future. The thrust of this legislation relates to the current enthusiasm for community notification procedures which have been mentioned earlier.

The cost-effective nature of reintegration and prevention measures is well known to all of you. Rather than approving legislation to gather and spread information of questionable utility in the prevention of crime, we recommend that you devote your resources to preventing recidivism, to assisting victims and to educating the community about the positive state of community safety in Ontario.

It is therefore our submission that the legislation not go forward. Thank you, Mr Chair.

**The Chair:** Thank you, Ms White. We have five minutes per caucus.

**Ms Lankin:** Thank you very much. I'm thinking back to your opening comments, "Here I go with my presentation; dismiss it as you will." There is an unfortunate tone that has been set that no matter what presenters have to say to this government, there are certain aspects they are going to proceed with no matter what. Having said that, perhaps focusing on what can improve the bill from your perspective, even though I understand you would prefer to see it not go ahead, would be important for those of us who will be engaged in the amendment process to hear.

I was particularly struck by the commonality of the comments made by all the presenters today. They don't know what this bill actually does. So much is left to regu-



lation. We don't know who are the dangerous offenders who might be in the circumstance of needing public notification. We don't know who is going to make that decision. We don't know what guidelines the person is going to use.

It seems to me, if there is a public desire, in the circumstance of dangerous offenders and particularly paedophiles, for community notification upon release of those people, surely we can draft a bill that says that, instead of one that leaves it all open. I was wondering if you could comment on how you would like to see the bill amended, if, as the parliamentary assistant says, it's going to go through with the notification process in any event.

**Ms White:** Anything that brought the bill closer to working in a public forum rather than behind the veil of bureaucratic procedure would improve it immensely. Starting from zero, it's got a long way to go. The court procedure that was mentioned by the previous speaker, that would be a way of keeping it in the public forum, that would assist.

I think we are not talking about the Change of Name Act here, right? Yet that's the guise under which most of this work is being done. It becomes more complicated than necessary when we mingle a whole assortment of legislative amendments into one piece of legislation rather than directing our attention to the particular concern.

There's no doubt that there are specific instances where it would be important for an individual or several individuals to be informed that another individual was coming into their community. I can certainly agree that might well be the case. Do it in a public way, do it in an open and honest way and do it through your court system.

**Mr Jim Flaherty (Durham Centre):** Good afternoon. I want to explore with you, if I may, an issue that you raised and that also was raised in a previous submission this afternoon by the Elizabeth Fry Society, and that is the fact that the amendment to section 3 would require a criminal record check on behalf of an applicant seeking a change of name who was charged with an offence before trial, and how that is offensive, I gather, in the view of those making those submissions because those persons are presumed not guilty pending trial.

My concern with that is that the Bernardos and Olsons of this world may wait a long time for trial after they're charged. We all know that in the criminal justice process. Many of the steps in that process are there to protect the rights of persons charged with criminal offences, that is, preliminary inquiries and disclosure before trial, and then setting an appropriate time for a trial date and appeals and so on.

It seems to me, with respect to those who hold different views, that the greater public good is clearly on the side of requiring such persons, if they try to change their names from the time they are charged until the time of trial, which could be two years, if they try to change their names during that period of time, the greater public good, it seems to me, is clearly on the side of the community saying: "No. We're not taking away your right to change your name at some point. You can change it after your trial perhaps, if you want to, but during this period of time

while you're charged, the greater public good is served by your not being permitted to take that step." The harm, I guess, is that this individual so charged has to endure a delay in making a procedural application. Don't you think the greater public good is clearly served by the former, that is, the community has the right to say, "No, you'll just have to wait a little while"?

1720

**Ms White:** I'm not sure the community good is served. By the way, you referred to Mr Bernardo or Teale and Mr Olson, both of whom from the time of charge through the time of incarceration under sentence were in prison so I'm unclear what community safety would have been —

**Mr Flaherty:** One of them, after committing offences, went through a change-of-name procedure: Mr Bernardo.

**Ms White:** I'm not denying that Mr Bernardo — that's why I referred to the name "Teale." He did put in a change of name. But from the time of charge to the time of disposition he was imprisoned, and I'm not sure what community safety would have been enhanced by the failure to allow him to change his name. That's my only comment, Mr Flaherty.

**Mr Bob Wood:** I think you were here when I asked Mr Borovoy the question as to how he would constrain in the statute the release of information about offenders. You were here when he answered that question, I think.

**Ms White:** Yes.

**Mr Bob Wood:** In answer to a similar question earlier, you talked about some process issues; in other words, you'd have the courts deal with this. I wondered if you might address what Mr Borovoy said about what he would put in the actual statute, that it had to be believed on reasonable and probable grounds that a person released from prison is likely to commit acts of serious bodily injury. Do you think that makes sense or do you think that's not a good idea?

**Ms White:** I would never say that Mr Borovoy did not make sense. I think the phrasing is very good.

**Mr Bob Wood:** What's your reaction to the suggestion that the offender might be notified prior to the release of this information? Do you think that's a good idea or a bad idea?

**Ms White:** I think if we were talking about a procedure that would happen in chambers through the court process, it would be essential that the individual was informed and allowed to make representation. If we are talking about the alternative, the regulatory manner —

**Mr Bob Wood:** I don't want to interrupt you; I just want to clarify my question. Let's assume we don't go the judicial route.

**Ms White:** I was assuming that in getting to the second half of my answer. If you go the regulatory route, it would be as imperative that the individual have input, but I do not support its being done in a regulatory fashion.

**Mr Bob Wood:** But I gather that if we went that route, you would support them being notified as opposed to not being notified.

**Ms White:** Yes, that's correct.



**Mr Young:** Paul Bernardo's wife, Karla Homolka, will be out on parole at some point, I think relatively soon.

**Ms White:** I don't know that.

**Mr Young:** Everybody knows her crimes; everybody knows she had a shorter sentence because she made a deal with the crown attorney. Would you agree that she should be allowed to change her name when she's released from prison? Would that be a good idea?

**Ms White:** I see no reason for Ms Homolka to not change her name.

**Mr Young:** I wanted to ask you, have you ever had a heart-to-heart conversation with parents of children or seniors who live alone in the communities that these people might move into because there's a lot of housing that's affordable in those communities?

Some of us live in communities where paroled criminals or criminals having served their sentence couldn't afford to live, but there are lots of people, particularly in Metro, in communities where they could afford to live and they might readily become their neighbours. Have you ever had a heart-to-heart conversation with these people and asked them how they feel about it?

**Ms White:** In fact, I've spoken often and in great depth with Priscilla de Villiers, who I think you would acknowledge is someone with some personal experience in this area.

**Mr Young:** No, I'm talking about parents who are profoundly afraid to let their children play in the park alone because of the kind of people we let out, and they don't know where they're living.

**Ms White:** I was going to qualify my response by saying heart-to-heart discussions with individuals are not the subject of public discussion.

**Mr Young:** I'm asking you.

**Ms White:** You may take it that I would not do my work without informing myself of its environments or of the concerns of all involved with it. I am aware that mothers can be very concerned about where their children play. I am a mother.

**Mr Crozier:** Good afternoon, Ms White. I am selecting some points you made from page 2 under "Anticipated Target Group." You commented that the vast majority of individuals would not have the inclination to undergo the bureaucratic procedure of formally registering a change of names and that you are unaware of any significant use of these provisions. When anyone comes before these committees, at least those that I've sat on, if you don't start to think differently from an opinion you may have formed before you listened, then I don't think you are listening.

I want to preface what I am going to ask you by saying that because you have made me think a little bit more about this bill. With those points you've made, and I am going to make a comment and then maybe you'd like to respond to it, I might think to myself the way this bill is drafted now it is much ado about nothing in that the name of it says it's going to improve community safety, but

maybe it really isn't. This might be the kind of a bill where we could go out into the community and say, "There, we've made a significant move towards protecting our community," when really it hasn't. Now I've made that comment.

**Ms White:** I would agree with that comment. I would agree that it is not very helpful to the public at large to suggest that there is any way of achieving total public safety, that we can legislate our way to 100% safety and that every child will play safely in every street from now until they die of old age. I do think that we can do many things to enhance our public safety, and I do not think this legislation is the way to go about it.

**The Chair:** Thank you very much for assisting the committee, Ms. White.

Just before we finish, are there any questions of the parliamentary assistant anyone wanted to ask him before we break for the day?

**Mr Ramsay:** Does he anticipate any government amendments coming forward?

**Mr Bob Wood:** There will be some.

**Ms Lankin:** I anticipate a government amendment which says we are going to notify them. You have asked them some important questions that would signify that that is an area you are looking at. I hope there may be some other areas.

**Mr Bob Wood:** You should make no assumption as to the influence of any individual member.

**Ms Lankin:** I am not going to comment on that, but I understand exactly what you are saying. I ask, perhaps in addition to the information I asked earlier around some statistics and numbers from the registrar general and Solicitor General, if you could provide the committee with some better sense of your intended use of the provision with respect to the Ministry of Correctional Services. I am genuine in my request about this. It's hard for me with my experience in the system to see the usefulness of that particular set of amendments.

The other thing that would be useful for us to explore as a committee, if the government is willing to go down that road, whether we might be able to find a general willingness to bring a little more definition into the act and not leave as much to regulations. There might be an opportunity over the next few days for us to actually do some collective work before we get into clause-by-clause next week on what kinds of provisions should be contained within the act. I think the next time the committee meets our critic will be back, but it might be helpful if you could give the committee an indication on that.

**Mr Bob Wood:** I am certainly open to any suggestions that anyone might make, and we invite you to come forward with them.

**The Chair:** If there no further business, we will adjourn for deliberations on clause-by-clause to Tuesday, September 9, at 3:30 pm.

*The committee adjourned at 1730.*

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(Hansard)**

**Tuesday 9 September 1996**

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**Mardi 9 septembre 1996**

**Standing committee on  
administration of justice**

**Community Safety Act, 1996**

**Comité permanent de  
l'administration de la justice**

**Loi de 1996 sur la sécurité  
de la collectivité**

Chair: Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 9 September 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 9 septembre 1997

*The committee met at 1553 in room 228.*

## COMMUNITY SAFETY ACT, 1996

## LOI DE 1996

## SUR LA SÉCURITÉ DE LA COLLECTIVITÉ

Consideration of Bill 102, An Act to improve community safety by amending the Change of Name Act, the Ministry of Correctional Services Act and the Police Services Act / Projet de loi 102, Loi visant à accroître la sécurité de la collectivité en modifiant la Loi sur le changement de nom, la Loi sur le ministère des Services correctionnels et la Loi sur les services policiers.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen of the committee. This is a hearing of the administration of justice committee consideration on a clause-by-clause basis of Bill 102.

Filed with the clerk prior to Friday at 3 pm, I believe it was, are nine amendments, by both the government and the opposition. You should all have received copies of that for your consideration.

If there are no objections, I'll move to section 1 of the act and we'll deal with them in numerical order.

Shall section 1, with no amendments, carry? Is there any discussion in regard to that? If not, shall it carry? Against? Section 1 is carried.

Shall section 2, with no amendments, carry? Section 2 is carried.

Shall section 3, with no amendments, carry? All those in favour? Against? That section is carried.

Now we'll go to the first amendment, being a government amendment to subsection 4(3) of the bill.

**Mr Bob Wood (London South):** I move that subsection 4(3) of the bill be amended by adding the following as subsection 8(1.4) of the Change of Name Act:

"Incidental information not to be disclosed

"(1.4) The Ministry of the Solicitor General shall not, under subsection (1.2), give any information that it has obtained under clause (1.1)(b), other than information that may be relevant in determining whether there has been a change of name of a person or, if there has been a change of name of the person, any information regarding or relevant to the change of name."

I'd be pleased to give an explanation although maybe it's self-explanatory.

**The Chair:** Thank you, Mr Wood. We would like an explanation.

**Mr Bob Wood:** This bill amends the Change of Name Act to allow the Registrar General to give the Ministry of the Solicitor General access to records to allow the ministry to search for and obtain information that may be relevant in determining if there's been a change of name.

The bill allows the ministry to share that information in accordance with the regulations with corrections, police services, Ministry of Transportation or other agencies for the purpose of law enforcement, corrections or the administration of justice.

The amendment provides that, should ministry officials have incidental access to personal information that is not relevant to a change of name, that information cannot be disclosed. Incidental access could occur in two situations: (1) In searching the Registrar General's records for change of name information of individual A, access is provided to change of name information of individual B. (2) In searching individual A's file, access is gained to collateral information relating to another individual such as, for example, A's parents. Ministry officials will still have access to all records in the possession or control of the Registrar General. However, only information relevant to determining if there has been a change of name or relevant to the change of name may be disclosed to other organizations.

This amendment will help ensure that personal privacy is protected.

**Mrs Marion Boyd (London Centre):** I gather that this is in response to some of the concerns around the privacy issues that were raised by Mr Borovoy and others at the hearings. Is that correct, or is this something the ministry itself determined was missing from the bill?

**Mr Bob Wood:** This came more from the ministry and some of the discussion with respect to the bill.

**Mrs Boyd:** The other question I had was about some of the incidental information you talked about with a third party, as in parents or as in one would assume perhaps a former partner. Would that also apply if the individual had been adopted and there had been a name change as a result of an adoption?

**Mr Bob Wood:** I think the answer to that is, it would. I'm going to doublecheck that.

Yes, that answer is correct. Only if it were irrelevant to the change of name, which in the circumstance you posit, I don't think it would be.

1600

**Mr Bruce Crozier (Essex South):** Perhaps you can just give me some definition of "relevant" and who would determine what is relevant and what is not.

**Mr Bob Wood:** I'm not sure I can improve upon the word itself. The definition is primarily by the officials administering the act.

**Mr Crozier:** We just have to assume or at least have confidence in the fact that whoever is reviewing this will be able to determine its relevancy and then go from there. In other words, if they release, I can't see any problem with erring on the side of not releasing too much. But on the other side, if I see something as not being relevant and suddenly somebody else sees it is, the information is already out. In the end, it's just a judgement call.

**Mr Bob Wood:** That's in essence correct. We have confidence in those administering the act, both police and others, that they'll follow the act.

**The Chair:** I have a question, if I may. Are there any sanctions if the act is not complied with or would that be under the Change of Name Act?

**Mr Bob Wood:** I want to consult before I answer that. The answer is that no penalties are provided in the act. Whether or not a breach of the act might leave the official open to civil liability is a question I wouldn't want to undertake to answer. I think that might have to be determined by the courts.

**The Chair:** Are there any further questions or discussion in regard to the proposed amendment by the government? If not, shall the amendment carry? Against? The amendment is carried.

I shall now put the question, leaving time for debate if required. Shall section 4, as amended, carry? Is there any further discussion in regard to that question? If not, all those in favour? All those against? Carried.

Section 5 has no amendments. Is there any discussion in regard to section 5 before I put the question? If not, shall section 5 carry? All those in favour? It is carried.

We are now proceeding to section 6 and we have a proposed amendment by the third party.

**Mrs Boyd:** I move that section 6 of the bill be amended by adding the following as subsection 10(2.1) of the Ministry of Correctional Services Act:

"Restriction on disclosure to general public

"(2.1) A person described in subsection (2) shall not disclose personal information about an individual to the general public unless he or she first obtains an order from a judge of the Ontario Court (General Division),

"(a) finding that the individual who is the subject of the proposed disclosure is dangerous to the public;

"(b) finding that the proposed disclosure consists only of information that is reasonably required for public safety; and

"(c) permitting the disclosure."

The purpose of the amendment obviously is to deal with some of the concerns that were raised around the arbitrariness of the bill as it stands. This would offer due process in terms of finding that indeed it is in the best public interest for the information to be disclosed. I think

basically the consistent concerns expressed about this bill were only about ensuring that public safety concerns were balanced with concerns around any infringement upon rights. It seems to me that providing for due process where a judge would make a determination on these matters would allay some of the concerns that were being raised by people like the Civil Liberties Association.

**The Chair:** Thank you, Mrs Boyd. Is there any further discussion?

**Mr Bob Wood:** We share some of the concerns that underlie this motion, as those who have had an opportunity to read our amendment will see. We take a somewhat different approach to the solution of this. We feel that the police chiefs and others set out in the act are the best qualified to make this kind of decision.

We think that to throw this into the courts is not the most appropriate way of balancing the rights of all concerned, in particular those members of the public who might be endangered by the persons being named. The second issue raised here is the matter of, should there be a different test for external disclosure from internal? While we are not supportive of the idea of involving the judiciary, as we get some experience with this act there may be merit in a different test. But we think we need more experience with the act before we are prepared to endorse that. It may be a good idea; it may not be. Those in essence are the reasons that we are not supporting this amendment.

**Mr Crozier:** Can someone give me their best estimate of the time it takes to have something like this taken to the court? Is there a long delay, does it have to get into the process or is it something that's handled immediately?

**Mr Garry J. Guzzo (Ottawa-Rideau):** Overnight when I was there.

**Mr Terence H. Young (Halton Centre):** Weeks.

**The Chair:** You weren't always there.

**Mr Bob Wood:** It's longer rather than shorter. As you judicialize something, you get into formal rules. You have to file a notice of motion, there's a right of cross-examination, in some cases an affidavit and all that sort of thing. I think the answer is that we can't tell you that until it happens, but the tendency has been for the times to grow, not diminish. There have been attempts at speedy judicial process, most of which have failed.

**The Chair:** Thank you. Are you done Mr Crozier?

**Mr Crozier:** Yes.

**Mrs Boyd:** I think that explanation needs some questioning. One would obviously assume this would be in the nature of an injunction or another matter that might be brought ex parte. In terms of safety, we see those in the family court all the time; in terms of civil actions around restricting the access of someone to another person. It seems to me this is very much the same kind of situation. What we had envisioned was a process that would be similar to a process of an injunction or a civil restraining order. While that might take a little bit of time, it seems to me that what we are looking at here is an action of disclosure that essentially affects a person's liberty in a very real way. We have seen many examples, where police chiefs have made the determination and have released the



whereabouts of someone in the past, that that person is unable to live in that community any longer.

The issue around due process ought to pertain whenever we are restricting the freedom of an individual, and in these cases one would assume an individual who had served their time and was just like any one of us. It seems to me not unreasonable that we would expect the same kind of judicial process to apply to that person as to someone who, for example, was charged with criminal harassment and put under a civil restraining order to keep them from having contact with the person they had harassed. It is a public safety issue that's quite similar; it seems to me the parallels are quite similar.

In order to protect due process, it is not very wise for us to say it might take a little bit of time. It does take a little bit of time to protect freedoms in a democratic society, that's true. But in the long run we all lose if we begin to undermine those freedoms.

1610

It worries me quite a bit that the government has tried to say they do not anticipate that this would be happening in hundreds and hundreds of cases, as I recall they have said. It would be the very specific cases where there is a clear danger. We're not talking about every convict having their name and their location broadcast. We're talking about very specific issues, and one ought to be required to go through a due process in order to restrict someone's freedom under those circumstances.

**The Chair:** Any further discussion or questions?

**Mr Young:** I have a concern with the proposed amendment. I don't think the courts or the judges are experts on community safety. I am concerned that it would lead to lengthy delays in getting that information and bringing the court up to speed. In fact, the people they would consult would probably be the very police chiefs we want to give this power to in the first place. I am concerned that while the courts consider the matter, dangerous offenders would be released and endangering the community.

**Mrs Boyd:** Equally, there is a danger that we may see a situation of a police official who does not like having certain types of offenders, even if they have filled out their entire sentence in their community, using this as a way of sending people forth from their own communities into other communities. Basically, this is a bit of a nightmare that you are setting up here if you get this kind of revolving aspect where it's left up to chiefs of police to decide who is dangerous and who is not. It is a very small step from that, in the cases of these particular people, to police chiefs making other kinds of determinations around who ought to be able to live in a particular community. I think that's a very serious issue.

**The Chair:** Are there any further questions or comments in regard to Mrs Boyd's motion to amend section 6 of Bill 102? If not, I will put the question. Shall the amendment to section 6 of the bill carry? All those in favour? All those against? I believe the amendment fails.

I will move on to the next amendment, which is a government amendment, item 3 of your amendment package.

**Mr Bob Wood:** "I move that section 6 of the bill be amended by adding the following as subsection 10 (2.1) of the Ministry of Correctional Services Act:

"Purpose of disclosure

"(2.1) Any disclosure made under subsection (2) shall be for one or more of the following purposes:

"1. Protection of the public.

"2. Protection of victims of crime.

"3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.

"4. Law enforcement.

"5. Correctional purposes.

"6. Administration of justice.

"7. Enforcement of and compliance with any federal or provincial act, regulation or government program.

"8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual."

Changes to the Ministry of Correctional Services Act will allow for the disclosure of information by correctional officials in accordance with regulations. Concern was expressed at public hearings that the bill did not contain enough detail regarding the purposes of this disclosure, creating the possibility of unfettered discretion to release information. This concern was shared prior to the hearings as well. This amendment responds to that concern by establishing eight purposes for disclosure by correctional officials. Information may be released, for example, to protect the public and victims of crime from high-risk offenders. Disclosure may also be made in the interests of the administration of justice, law enforcement and for correctional purposes.

While enforcement and correctional purposes will be defined by reference to the statutes that set out these mandates — ie, the Police Services Act governs law enforcement and the Ministry of Correctional Services Act describes requirements for correctional purposes — the inclusion of the administration of justice will help ensure the flow of relevant offender information among police and courts administration, correctional and paroling authorities. This amendment demonstrates that the purpose of this bill is to provide for disclosure for legitimate justice and law enforcement purposes.

**Mrs Boyd:** I wonder if the parliamentary assistant could give me an example. I understand entirely the first three points here, but I wonder if you could give me an example of what you would anticipate to be under this section for law enforcement. What would you see as the disclosure for the purposes of law enforcement?

**Mr Bob Wood:** If you thought there was a dangerous offender who might offend, that's law enforcement.

**Mrs Boyd:** It's probably wise for us not to use the terminology of "dangerous offender," since it has a particular meaning under law in Canada, under the Criminal Code. You are talking about someone who is being released from prison, having fulfilled their sentence, right?

**Mr Bob Wood:** So they may be a dangerous offender even though they haven't been found by a court to be a dangerous offender.

**Mrs Boyd:** That is the worry about all of this: Who found them that way and who makes that determination? You're saying that the police do.

**Mr Bob Wood:** That's true.

**Mrs Boyd:** I continue to feel it's extremely dangerous for us to get into a situation where police or correctional officers are making that kind of determination. It can be extremely arbitrary, particularly when we are talking about a wide range of possibilities.

I'm sorry, I'm still having a little bit — I can understand correctional purposes in the sense of how the release takes place and that kind of thing, but I'm not quite clear on what you would see as happening with either the law enforcement or the administration of justice. Can you give me an example?

**Mr Bob Wood:** I'd answer your question this way: There obviously is a lot of discretion in the judicial system. They've done studies of that, and about half of it is done by police officers: to charge or not to charge, when to arrest, all that sort of thing. We think they have done a very good job of exercising that discretion. That is why we're reposing that discretion in the police chiefs and the others set out in the act. The police exercise, if you want to look at them as a group, more discretion than a judiciary does and we think they do it well.

**Mrs Boyd:** I would not disagree with you. I think that the recent changes to the Criminal Code that gave staff sergeants more responsibility around interim release conditions and so on when someone is arrested indicates that generally is true, that within the justice system there has been a good level of faith at the discretion of police officers. I was very supportive of those changes. I think it is important to get some of those things resolved, when someone has been charged but not yet convicted, and deal with the public safety aspects at that end of the spectrum.

But when we are talking about someone who has already served their time for a crime for which they have been convicted and for which a court was not asked by the prosecutors to name them as dangerous offenders, which gives added powers to the whole supervisory function of corrections, at that point to have that determination made by a police officer for reasons other than protection of the public — my argument is not around the issues of protection of the public. You've got a number of different items here, and all I'm saying to you is that I don't understand what you're trying to accomplish by talking about law enforcement or administration of justice. Yes, of course if the police are acting to protect the public, they're already covered. I don't understand why law enforcement is a separate category here, particularly when you're saying, "one or more of the following purposes".

A scenario: You've got a police chief who doesn't like anybody who has ever been convicted of anything coming back and settling in his or her town. It is not inconceivable that this one purpose could be, "I don't like these folks

living in my town," as a law enforcement officer, isn't it? So you've left it very wide open.

The protections you say you're putting in: In response to the concerns that were raised, it seems to me that section on law enforcement and administration of justice is completely out of sync with the other elements you have here, which are protection of victims, protection of the public, correctional purposes, the enforcement of any provincial or federal act. Those all make sense to me, but simply law enforcement and administration of justice? Pretty wide open.

**Mr Bob Wood:** My interpretation of law enforcement would be a little different from yours. I don't think that if a police chief doesn't like somebody, that has anything to do with law enforcement. The issue is, are they going to breach the criminal law?

**Mrs Boyd:** Why doesn't it say that?

**Mr Bob Wood:** I think that's what it does say. I don't think a police chief could give as a reason, say: "Well, I don't like that person. Therefore, for the purposes of law enforcement, I'm going to disclose them." I don't think they can do that. That's not what I think law enforcement means.

**Mrs Boyd:** To whom are they going to give a reason? That's why we want it to go to a court, that they would give a reason to a court. "This is the reason why this person is going to be pilloried in the press, because they're a danger to the public." They don't have to give a reason, they just do it, under this bill.

**Mr Bob Wood:** I think the idea that there is no supervision is not correct. If in fact a disclosure is made contrary to the act, it is also a violation of the privacy laws.

**Mrs Boyd:** My point is that it wouldn't be contrary to the act.

**Mr Bob Wood:** Yes. I think you and I differ on what law enforcement might mean.

**Mrs Boyd:** If we're not sure, how will the people who are going to be enforcing the act be sure?

**Mr Bob Wood:** I think it's fairly clear. The example you gave is not law enforcement. I don't think it's a marginal case, I think it's quite a clear case that doesn't fall under that heading.

**Mrs Boyd:** Most people at some point or another commit — would a parking offence be law enforcement? Would failure to pay support payments be a law enforcement issue? These are all laws, and that's a very broad category.

**Mr Bob Wood:** None of those are criminal laws.

**Mrs Boyd:** It doesn't say "criminal law." You do not say "criminal law enforcement" here.

**Mr Bob Wood:** That's true.

**Mrs Boyd:** If you were prepared to entertain simply putting "criminal law enforcement," I would stop arguing with you about this issue.

**Mr Bob Wood:** I think that's what it means in this context.

**Mrs Boyd:** But it doesn't say it in the bill.



**Mr Bob Wood:** I think when you read the bill as a whole, that's the way it will be interpreted. I may be wrong. I can't guarantee that.

**Mrs Boyd:** Since we're amending the bill, would it not make sense, if that is what the government means by this, to simply say "criminal law enforcement"? If that's the intention and we're in the process of amending, would that not be a friendly amendment to your amendment?

**Mr Bob Wood:** I think the statute as drafted has that result. I don't think it's a necessary amendment.

**Mrs Boyd:** We will see, won't we?

**The Chair:** You are not making a formal amendment, Mrs Boyd?

**Mr Bob Wood:** No amendment is in order.

**The Chair:** Why not?

**Mr Bob Wood:** I thought they all had to be in by —

**The Chair:** An amendment to an amendment is always in order, is it not?

**Mr Bob Wood:** I didn't think any were, but maybe they are. I don't know. I defer to you.

**Mrs Boyd:** I would like to make an amendment to the amendment.

**The Chair:** I think it's in order. Would you like to comment on why it is not in order?

**Mr Bob Wood:** I understood that all the amendments had to be in by 3 o'clock. I thought that was what you asked.

**The Chair:** Yes. That's the amendments to the act. Just one moment. We've got to take two minutes' recess. That's an interesting point. This is an amendment to an amendment that you did not see until that time. Could we recess for two minutes? Thank you.

*The committee recessed from 1625 to 1627.*

**The Chair:** If we may reconvene. I feel that amendments proposed from the floor at any time to amendments filed with the committee are proper as of this moment. I wasn't inviting an amendment. I asked, however, whether you wished to make an amendment to the present amendment.

**Mrs Boyd:** I understand that you weren't inviting an amendment, Mr Chair, but I would like to amend the motion in front of us by adding the word "criminal" under paragraph 4 to read "criminal law enforcement."

**The Chair:** The amendment has been made. Is there any discussion?

**Mrs Boyd:** I think we've discussed it thoroughly, Mr Chair.

**Mr Bob Wood:** I think I'd like to add a couple of things here. We don't support this amendment, as I indicated earlier. We want to err on the side of community safety. Once we get some experience with this act, it may well be that this section should be refined, but we'd like to start by erring on the side of community safety and erring on the side of victims. To the extent there is any error, I think it should be in that area.

We do not support this amendment at this time. As we gain more experience, there may well be changes that are meritorious, but we'd like to get some experience before we make any.

**Mrs Boyd:** If there's any chance of erring at all, and we're erring on the side of infringing on people's individual rights, we'd better be very clear that these could be anybody's individual rights. I am not at all comforted by the parliamentary assistant's suggesting that there may be an error and, "We'll see over time and we can retrieve it." You can't retrieve what happens to people whose lives are exposed the way they might be as a result of this act.

I hope that the parliamentary assistant would agree that it is important for us always to err on the side of caution and that the other protections for the public are already here. We're simply talking about a section here where one or more of the following purposes could pertain. If it said, "Protection of the public and protection of victims of crimes always," and then any one of the others added to it, that might be something else. But it could be just this alone, and we don't know what that means.

**The Chair:** Is there any further discussion? We are now dealing with Mrs Boyd's motion to amend a government amendment moved by Mr Wood.

Is there any further discussion in regard to the amendment of the amendment proposed by Mrs Boyd? If not, I would put the question. Shall Mrs Boyd's amendment carry? All those in favour? All those against? I believe the amendment fails.

We are now dealing with Mr Wood's amendment as set forth in item 3 of your amendment package. Is there any further discussion in regard to Mr Wood's proposed amendment?

**Mr Crozier:** Just to say that I supported the amendment to the amendment and I will be supporting the amendment. That's not to say that there is any change in the way I feel. I just felt that the previous amendment strengthened it, but certainly this is an improvement on what we have in the bill.

**Mrs Boyd:** I too am very disappointed that the parliamentary assistant would not agree to that minor change. But there is no question that there is at least some greater protection in the bill under this amendment. I will with some reluctance also be supporting it because it is a better solution than the original bill provided. At least it went some way to meet some of the very serious concerns that were expressed during the hearings.

**The Chair:** I'll put the question. Shall the government amendment to section 6 carry? All those in favour? It is unanimous. It is carried.

I'll now move to item 4, a government amendment.

**Mr Bob Wood:** I move that section 6 of the bill be amended by adding the following as subsection 10 (4) of the Ministry of Correctional Services Act:

"Same

"(4) If personal information is disclosed under subsection (2) to a ministry, agency or institution, the ministry, agency or institution shall collect such information and subsections 39 (2) of the Freedom of Information Act and Protection of Privacy Act and 29 (2) of the Municipal Freedom of Information and Protection of Privacy Act do not apply to that collection of personal information."

Changes to the Ministry of Correctional Services Act will allow for the passage of regulations for the disclosure of personal information. While this will include notice to the public about high-risk offenders, the regulations may cover other disclosure situations whose purpose are set out in the bill as amended. Regulations may support the flow of information generally through the justice system. For example, corrections and paroling authorities may be authorized to share all relevant personal information with the police. Under current provisions of the Freedom of Information and Protection of Privacy Act, the authorities collecting the information may be required to give notice to the individual. This amendment will remove the necessity of providing notice to individuals regarding collecting of their personal information, which would be impractical and unmanageable.

**The Chair:** Any discussion or comments, or questions of Mr Wood in regard to the proposed amendment? If not, shall the amendment carry? All those in favour? All those against? The amendment is carried.

I will now put the question. Shall section 6, as amended, carry? All those in favour? All those against? Section 6, as amended, is carried.

We're moving to section 7. We have a third-party amendment proposed, being item 5 of your amendment package.

**Mrs Boyd:** I move that clause 60(u) of the Ministry of Correctional Services Act, as set out in section 7 of the bill, be amended by inserting "for disclosures that are not to the general public," after "and" in the fourth line.

This clause (u) would read: "authorizing designated persons employed in the administration of this act to disclose personal information about individuals and for disclosures that are not to the general public prescribing the nature of the information that may be disclosed, to whom it may be disclosed and the circumstances in which it may be disclosed."

This is simply distinguishing between information that is to be disclosed to the general public and information that is to be disclosed to certain persons for the purposes of their job or their function within the community. It just assumes that there are going to be two different modes of disclosure.

**Mr Bob Wood:** As you know, our approach at this point is not to have different tests for public and internal disclosure. We'd like to see how the act works. I don't say at some point in the future that there might not be merit in making that distinction; we think the time is not now, however, to make that distinction.

**Mrs Boyd:** Again I would make the point that in the meantime a great deal of harm can be done. It seems to me that the government ought to be making a very clear distinction between disclosures that are to the general public and those that are for the purposes of law enforcement or administration of justice or some of those other issues that as yet seem to be just as difficult to define as the rest of this bill.

**The Chair:** Any further discussion, questions or comment in regard to the proposed amendment, being item 5 in your amendment package?

If there is no further discussion, I'll put the question. Shall the amendment proposed by Mrs Boyd carry? All those in favour? All those against? I believe the amendment fails.

Therefore, we are now proceeding to section 7 of the act, as unamended. Is there any discussion in regard to section 7 of the act as proposed in Bill 102?

If there's no discussion, I put the question. Shall section 7 carry? All those in favour? All those against? Section 7 is carried.

There are no amendments to section 8. Before I put the question, is there any discussion in regard to section 8? If not, shall section 8 carry? All those in favour? All those against? Section 8 is carried.

We have an amendment to section 9 proposed by the third party; item 6, I believe.

**Mrs Boyd:** I thought the government amendment came first. Am I out of order here?

**The Chair:** Does it matter? Would you withdraw yours if the government —

**Mrs Boyd:** It's exactly the same wording and I would like to read it into the record.

**The Chair:** Fine.

1640

**Mrs Boyd:** I move that section 9 of the bill be amended by adding the following as subsection 41 (1.01) of the Police Services Act:

"Restriction on disclosure to general public

"(1.01) A person described in subsection (1.1) shall not disclose personal information about an individual to the general public unless he or she first obtains an order from a judge of the Ontario Court (General Division),

"(a) finding that the individual who is the subject of the proposed disclosure is dangerous to the public;

"(b) finding that the proposed disclosure consists only of information that is reasonably required for public safety; and

"(c) permitting the disclosure."

That's exactly the same amendment as it was to the Ministry of Correctional Services Act. I think we thoroughly discussed that, although I wish the government would recognize the necessity to have this have due process. I'm prepared to move to a vote.

**The Chair:** Mr Wood, I assume the government, to be consistent, is against that amendment.

**Mr Bob Wood:** I share Mrs Boyd's view that it's basically a companion amendment. For the reasons expressed earlier, we do not support it.

**The Chair:** Is there any further discussion? If not, we are dealing with Mrs Boyd's amendment to section 9 of the bill. Shall that amendment carry? All those in favour? All those against? The motion fails.

We are proceeding to the government motion, being item 7.



**Mr Bob Wood:** I move that section 9 of the bill be amended by adding the following as subsection 41(1.01) of the Police Services Act:

"(1.01) Any disclosure made under subsection (1.1) shall be for one or more of the following purposes:

"1. Protection of the public.

"2. Protection of victims of crime.

"3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.

"4. Law enforcement.

"5. Correctional purposes.

"6. Administration of justice.

"7. Enforcement of and compliance with any federal or provincial act, regulation or government program.

"8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual."

**The Chair:** Is there any further discussion in regard to that amendment?

**Mr Bob Wood:** This is companion to our earlier amendment.

**Mrs Boyd:** I'd just like to register exactly the same concerns about this as was true under the Ministry of Correctional Services Act, but indicate that as it is an improvement on the bill as it stands, we will be reluctantly supporting it.

**The Chair:** Is there any further comment or discussion? If not, shall the amendment carry? All those in favour? It is unanimously carried.

We are now dealing with item 8, which again is a government amendment to section 9.

**Mr Bob Wood:** I move that section 9 of the bill be amended by adding the following as subsection 41(1.3) of the Police Services Act:

"Same

"(1.3) If personal information is disclosed under subsection (1.1) to a ministry, agency or institution, the ministry, agency or institution shall collect such information and subsections 39(2) of the Freedom of Information and Protection of Privacy Act and 29(2) of the Municipal Freedom of Information and Protection of Privacy Act do not apply to that collection of personal information."

This is companion to the previous one and our reasons are similar.

**The Chair:** Is there any further discussion in regard to the proposed amendment of the government to section 9 of the act? If not, I'll put the question. Shall the amendment carry? All those in favour? All those against? The amendment is carried.

We are now dealing with section 9, as amended. Is there any further discussion in regard to section 9, as amended? If not, I'll put the question. Shall section 9, as

amended, carry? All those in favour? All those against? Section 9, as amended, is carried.

We are now proceeding to section 10, being item 9, which is an amendment proposed of the third party.

**Mrs Boyd:** I move that paragraph 20.1 of subsection 135(1) of the Police Services Act, as set out in section 10 of the bill, be amended by inserting "for disclosures that are not to the general public" after "prescribing" in the first line.

The amendment would read under those circumstances:

"20.1. prescribing for disclosures that are not to the general public the nature of the information that may be disclosed under subsection 40.1(1.1) by a chief of police or a person designated by a chief of police to whom it may be disclosed and the circumstances in which it may be disclosed."

The purpose of the amendment is, as it was in the previous situation, to distinguish between information that might be made to the general public from information that might be made internally for some of the other purposes. I would submit that although I'm quite sure the parliamentary assistant will make the same arguments as before, it is extremely important to distinguish between those two kinds of information.

**Mr Bob Wood:** This is indeed a companion amendment and my reasons for opposition are similar to those expressed earlier.

**The Chair:** Is there any further discussion in regard to the proposed amendment made by Ms Boyd? If not, I'll put the question. Shall the amendment carry? All those in favour? All those against? I believe the motion to amend does not carry.

Therefore, we are dealing with section 10 unamended. Is there any discussion in regard to section 10? If not, I'll put the question. Shall section 10 carry? All those in favour? All those against? It is carried.

We have to deal with the next few sections. I'll just put the questions. Please stop me if you wish to discuss any part of them.

Shall section 11 carry? All those in favour? It is carried.

Shall section 12, the short title of the bill, carry? All those in favour? Carried.

Shall the long title of the bill carry? All those in favour? Carried.

Shall Bill 102, as amended, carry? All those in favour? Carried.

Last, shall Bill 102, as amended, be reported to the House? Carried.

I thank you very much. Is there any other matter that anybody wishes to raise at this time? If not, we are adjourning at the pleasure of the Chair.

*The committee adjourned at 1647.*







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## **Legislative Assembly of Ontario**

First Session, 36<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Première session, 36<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

**Monday 29 September 1997  
Tuesday 7 October 1997**

# **Journal des débats (Hansard)**

**Lundi 29 septembre 1997  
Mardi 7 octobre 1997**

## **Standing committee on administration of justice**

**Victims of Violent Crime  
Commemoration Week Act, 1997**

**Ontario Society for the Prevention  
of Cruelty to Animals  
Amendment Act, 1997**

**Chair: Gerry Martiniuk  
Clerk: Douglas Arnott**

## **Comité permanent de l'administration de la justice**

**Loi de 1997 sur la Semaine de  
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crimes de violence**

**Loi de 1997 modifiant la Loi  
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animaux de l'Ontario**

**Président : Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Monday 29 September 1997

Lundi 29 septembre 1997

*The committee met at 1536 in room 228.*VICTIMS OF VIOLENT CRIME  
COMMEMORATION WEEK ACT, 1997LOI DE 1997  
SUR LA SEMAINE DE COMMÉMORATION  
DES VICTIMES DE CRIMES  
DE VIOLENCE

Consideration of Bill 155, An Act proclaiming Victims of Violent Crime Commemoration Week / Projet de loi 155, Loi proclamant la Semaine de commémoration des victimes de crimes de violence.

**The Chair (Mr Gerry Martiniuk):** I call the meeting to order. This is a meeting of the standing committee on administration of justice, clause-by-clause consideration of Bill 155. This is a private member's bill proposed by Mr John Baird. It has first and second reading.

First, I have a preliminary motion of the subcommittee that I'd ask be moved.

**Mr Dave Boushy (Sarnia):** I move that the subcommittee on committee business be composed of the following members: the Chair of the committee, Mr Flaherty, Mr Ramsay and Mr Kormos.

**The Chair:** Is there any discussion regarding the reconstituted subcommittee? If not, all those in favour? The report is adopted.

Mr Baird, sorry for the interruption.

**Mr John R. Baird (Nepean):** Thank you to the members of the committee. I appreciate each of you taking time out of your schedules to come before the committee to speak to this bill, particularly the member for Sudbury, who showed the House last week that you can pass a private member's bill. We appreciate you coming. I know there are a lot of demands on all our time.

I'll just speak for maybe one or two minutes, to give an outline of what the bill is. What the bill seeks to do is declare and proclaim the third week of April as Victims of Violent Crime Commemoration Week. Through the act I seek to do a number of things.

First, it's to commemorate the victims of violent crime and the tremendous lost potential, not just to their family and friends, but to our community and society as a whole.

Second, it's to commemorate the family and friends who struggle with the aftermath of that violent crime, not just with the personal issues, but many struggle, long after

their case is dealt with and long after the aftermath of their case, to seek change not just for other victims but for broader criminal justice reform.

Third, it's another vehicle for the victims' rights community to communicate with the general public and to focus attention on issues of concern to them.

Finally, it's a mechanism for those groups that are involved in victims' issues and indeed the general public to hold the government of the day accountable, not just exclusively to victims' issues, but as well to criminal justice issues. This annual week would give that accountability on a regular basis, which I think would be a positive change.

I will later on be proposing three amendments, which maybe I could speak to now.

**The Chair:** You can speak to them at the time they come up, Mr Baird. You'll just confuse me.

We have to have a motion adopting the subcommittee report.

**Mr Jim Flaherty (Durham Centre):** The report of the subcommittee is: "Your subcommittee met on Monday 22 September 1997 to consider the method of proceeding on Bill 155, An Act proclaiming Victims of Violent Crime Commemoration Week, and has agreed to recommend that the committee meet to consider Bill 155 clause by clause on Monday 29 September 1997."

**The Chair:** Is there any discussion in regard to the motion adopting the subcommittee report? If not, all those in favour? Carried.

We are proceeding to the bill itself. We are dealing first with section 1. There are no proposed amendments at this moment to section 1. Is there any discussion in regard to section 1?

**Mr Baird:** Mr Chair, in moving an amendment to the long title, where would I do that?

**The Chair:** That's at the end.

There's no discussion? Shall section 1 carry? Section 1 carries.

**Mr Wayne Lessard (Windsor-Riverside):** I have a point of order, Mr Chair, with respect to the preamble. Is that something that gets considered before —

**The Chair:** We do that at the end too. My clerk advises me it's traditional that the preamble is done at the end. It doesn't seem logical to me, Mr Lessard, but that is —

**Mr Bruce Crozier (Essex South):** Let's break with tradition.

**The Chair:** Some of our older members started this tradition. Mr Crozier can no doubt tell us about the logic of it.

**Mr Crozier:** Longer-serving members, not older.

**Mr Lessard:** You're talking more experience; seniority, not age.

**The Chair:** Yes, quite right. Thank you for pointing that out.

We are now dealing with a proposed amendment by Mr Baird to section 2.

**Mr Baird:** I move that section 2 of the bill be amended by striking out "Commemoration" in the fourth line.

I'll be presenting three amendments, this being the first. What they seek to do is to strike out the word "Commemoration" from the title. It was thought, in consultation with some of the victims' rights advocates who came to Queen's Park on the day of second reading, that the word "Commemoration" in the short and long titles of the act would perhaps give a more narrow focus, that this would exclusively be some sort of church service or service of commemoration, when in fact the four purposes I outlined earlier are much broader than that. So they recommended, and I certainly accepted, to just delete the word "Commemoration" from the title of the act.

**The Chair:** Is there any further discussion in regard to the amendment? Shall the amendment carry? All those in favour? It is carried.

I shall now put the question: Shall section 2, as amended, carry? Carried.

We are moving to section 3. Is there any discussion in regard to section 3? I call the question: Shall section 3 carry? It is carried.

We're moving to a proposed amendment to section 4.

**Mr Baird:** I move that section 4 of the bill be amended by striking out "Commemoration" in the second line.

**The Chair:** Is there any further discussion in regard to the amendment? If not, all those in favour of the amendment? Carried.

All those in favour of section 4, as amended? It is carried.

We are now moving to the preamble. Is there any discussion in regard to the preamble? That is prior to section 1. Mr Lessard, did you have some questions or comments?

**Mr Lessard:** Not at this time, no.

**The Chair:** The preamble consists of the four paragraphs prior to section 1 on page 1. Is there any comment

or discussion in regard to the preamble? If not, shall the preamble carry? All those in favour? It is carried.

We are now dealing with the long title. Mr Baird has an amendment.

**Mr Baird:** I move that the long title of the bill be struck out and the following substituted: "An Act proclaiming Victims of Violent Crime Week."

**The Chair:** Is there any discussion in regard to the proposed amendment to the long title of the bill? If not, shall the amendment carry? All those in favour? It is carried.

Shall the long title, as amended, carry? It is carried.

We are now proceeding to the bill in total. Is there any discussion on the total bill? If not, I put the question: Shall the bill, as amended, carry? All those in favour? It is carried.

Lastly, I ask your instructions: Shall I report the bill to the House? All those in favour? It is carried.

I'm sorry we kept you waiting today, Mr Baird, but that's about as fast as we can go. Is there anything else you wish to add at this time?

**Mr Baird:** I would just again thank all members of all three parties for taking time and for their support of the bill. It's greatly appreciated.

**Mr Rick Bartolucci (Sudbury):** Just another example of what happens when something good is brought before the House. I think there are many private members' bills that are very good. Without playing partisan politics, I really encourage the government members to encourage the powers that be. There is lots of talent in all three parties and lots of members bring excellent ideas.

Mr Baird and I were just a little bit lucky. Ours came because they not only stood on their own, but they were of a great deal of importance to the specific people involved. In reviewing private members' hour and some of the private members' bills that are still waiting, there are excellent ideas that I would suggest we encourage — and you people on the government side can encourage more than we can — be brought forth as quickly as possible.

**Mr Baird:** I was just going to say I agree with the member for Sudbury and I certainly commit to take that back not just to my caucus colleagues, but to the House leader as well.

**The Chair:** Thank you very much, gentlemen. We are adjourning at the pleasure of the Chair.

*The committee adjourned at 1546.*



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Tuesday 7 October 1997

Mardi 7 octobre 1997

*The committee met at 1532 in room 228.*

ONTARIO SOCIETY FOR THE  
PREVENTION OF CRUELTY TO ANIMALS  
AMENDMENT ACT, 1997

LOI DE 1997 MODIFIANT LA LOI  
SUR LA SOCIÉTÉ DE PROTECTION DES  
ANIMAUX DE L'ONTARIO

Consideration of Bill 153, An Act to provide more protection for animals by amending the Ontario Society for the Prevention of Cruelty to Animals Act / Projet de loi 153, Loi prévoyant une protection accrue des animaux en modifiant la Loi sur la Société de protection des animaux de l'Ontario.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen. This is the clause-by-clause deliberation of the standing committee on administration of justice review of Bill 153. The committee recognizes the member for St Andrew-St Patrick. This is a bill sponsored by her.

The first thing for the committee to do is adopt the report of the subcommittee. Could I have a motion to that effect?

**Mr E.J. Douglas Rollins (Quinte):** I'll so move.

**The Chair:** Thank you. Any discussion? All those in favour? The subcommittee report is approved.

Now, Ms Bassett, it's traditional that you might give us a general introduction to the bill for a couple of minutes and then we'll proceed to clause-by-clause.

**Mr Peter Kormos (Welland-Thorold):** Sorry, Mr Chair, I believe this subcommittee report ought to read "Tuesday 7 October 1997" instead of "September."

**The Chair:** Thank you very much for pointing that out, Mr Kormos. That was incorrect. Does anyone have any objection to amending the motion to include that amendment? It is carried.

Sorry, Ms Bassett.

**Ms Isabel Bassett (St Andrew-St Patrick):** Thank you very much, Mr Chair. Thanks, Mr Kormos, for pointing that out as well.

I want to thank my colleague the member for Cambridge, Mr Martiniuk, and of course the other members of the committee for hearing me today. With me today is Jack Slibar, who is the head of the Toronto Humane Society. I appreciate the opportunity to address the committee today on my private member's bill. I promise you I'm just going to speak literally two minutes, if that.

First of all, where am I coming from vis-à-vis this bill? To fill you in very briefly, without going into a family history, my daughter is in her last year of vet school. We've always had dogs, cats, ferrets and everything else.

My other daughter is in the OPP and so she has been very involved with making visits out in the Midland area to animals that are in distress. So I have been very involved in hearing over the years, and especially the past couple of years, about the problems that animals are in and the lack of powers that we have in the humane society act to look after and correct situations. That's what started me getting interested in presenting this bill.

Then Jack Slibar at the Toronto Humane Society and the Ontario Humane Society, working in conjunction with other humane societies, came up with the idea that the OSPCA act, which was passed, believe it or not, back in the early 1900s, has not been changed since then, other than the odd amendment. Virtually every other government has tried to change the act to a degree, but other things have seemed to supersede on the agenda. We have it come up with three amendments that we feel will protect animals and prevent abuse. It's not going to wipe out abuse overnight. I don't purport for that to happen at all.

I want to read what Marion Boyd said, because I think that sums up the realistic aims and goals of these amendments. Marion Boyd said, during second reading debate on September 11: "Passing this bill is not going end the controversy about whether it is appropriate for large animal operations...to exist. It is not going to end the controversy about using animals for medical research and other kinds of research. It won't do that. But what it will do will be to add to the ability of those who work so hard in our communities to try and protect animals from cruelty as it is currently defined to do their job and be assured that they have some of the tools required to do their job."

What are these proposed changes that are going to make it easier for agents and inspectors to do their job? The bill will create more effective animal cruelty legislation (1) by allowing inspectors and agents to carry out their duties more effectively, (2) by making people more likely to comply with an animal care order issued by an inspector or agent of the humane society, and (3) by prohibiting people charged and convicted of animal cruelty or neglect from owning animals in the future. These amendments will better assist front-line organizations such as the Toronto Humane Society in caring for abused and neglected animals. I want very much, as many people do, to see these amendments passed so that we can get on with this protection. I want to thank the Toronto Humane Society, the Ontario Humane Society and all the people involved with animals, and my colleagues on both sides of the House for their support of these amendments.

**The Chair:** Thank you, Ms Bassett. We'll now proceed with the clause-by-clause and we'll do it in numerical order.



Any questions or comments in regard to section 1 of the proposed bill?

**Mr Kormos:** Just for the sake of information, are inspectors or agents of the society peace officers by virtue of any definition?

**Ms Bassett:** They have the powers of police officers under the act.

**The Chair:** I think the question was "peace officers."

**Ms Bassett:** Oh. It's section —

**Mr Kormos:** Okay. I'm just trying to flesh this out and put it in context. Thank you kindly. I appreciate that.

**The Chair:** Are there any further questions of Ms Bassett in regard to section 1? Is there any discussion or comment any member wishes to make in regard to section 1? If not, I'll put the question: Shall section 1 carry? All those in favour? Section 1 is carried.

Are there questions to Ms Bassett in regard to section 2 of the proposed bill?

**Mr Kormos:** I should indicate that I spoke with Ms Bassett and some of the staff from the Toronto Humane Society about this before we started. One concern I had was the lack of procedure with Bill 153 for the purpose of applying for a court order. There being others here far more familiar with the law in that regard, I was asking about the prospect of, let's say, ex parte applications as compared to applications on notice, and then in the event that there is an ex parte, the prospect of a judge being permitted to make an interim order to accommodate a hearing after an ex parte seizure of an animal so that there could be a full hearing on notice. I would just like some assurance. As I say, the people here from the Toronto Humane Society are very generous with their advice in that regard, but if we could have some understanding of that on the record, it could be valuable for people who might have cause to refer back to this hearing.

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**Ms Bassett:** I don't think anything has changed under my amendment from what the law was previously. People are not allowed to obstruct inspectors going in, but if an inspector is going to go in, they will still require search warrants that are going to have to be obtained under the law, as any search warrant is.

**The Chair:** Excuse me, I think we're dealing with section 2. I believe Mr Kormos was directing his question to section 2 and in particular to subsection 20(2), which is an application to the court, and I think his question was whether that application could be made ex parte, without the individual respondent being in attendance, or whether it would have to be made with notice.

**Ms Bassett:** Oh, I didn't hear that. It would have to be given with notice.

**Mr Kormos:** I'm not critical of this section of the bill. Obviously the bill itself permits seizure of an animal, and that process is already provided for within the bill. The issue here is ownership, being a custodian, having custody of animals for a period of time specified. I'm interested in the prospect of being able to move speedily. Obviously, this would be applicable in the case of a big corporate operator as well that might well have animals seized but

that could, if it was a commercial operation, then import new animals. Let's assume what we've read about the notorious dog breeding operations. Puppy mills would be importing new puppies in short order even though the humane society just seized 50 puppies in need of protection, I guess is the phrase. So when you say that there's no ex parte, how do you deal with the issue of the next truckload that comes in tomorrow —

**Ms Bassett:** — before he's been convicted.

**Mr Kormos:** Yes.

**Ms Bassett:** If he's been convicted, the judge can then say this person or operation is not allowed to own an animal again, under my amendment. If he has not been convicted while he's charged and they've taken away the first batch of animals, what happens then to prevent a second batch coming in? The lawyer says that they could then apply to the courts for an interim order saying he's not permitted to do that when the second batch of animals comes in. What we have to be sure to make clear is that the Ontario regular procedures and rules must be followed if you're making an order. There's no way around it, even in the case of an example such as the one you give.

**Mr Kormos:** Thank you kindly. Thank you to counsel.

**The Chair:** I'm sorry. I'm still somewhat confused. I thought the answer initially was that there is no ex parte order. Now I think I understand that there is an ex parte interim application provision. Is that correct? Is there an interim application ex parte?

**Ms Bassett:** There is.

**The Chair:** Okay.

*Interjection.*

**The Chair:** Possibly you might step up to the microphone, ma'am. If you could identify yourself, you're speaking on behalf of —

**Ms Leanne Wong:** I'm from the Toronto Humane Society. However, perhaps the legislative counsel would prefer to comment on this.

**Mr Michael Wood:** I'm from the office of the legislative counsel. I can make one comment; that is, that in Ontario statutes it is not necessary to set out procedure that is covered by the rules of civil procedure. If the rules of civil procedure allow for an application to be made ex parte or for an order for interim relief, then that would be sufficient.

**Ms Wong:** So in this case the Ontario rules of procedure do apply and they have to be followed.

**The Chair:** Good. Thank you very much. Does that answer your question, Mr Kormos? Are there any further questions?

**Mr Bob Wood (London South):** Just to make sure I've got this too, there's no deviation from the regular rules of practice that is introduced by this legislation?

**Ms Bassett:** Absolutely none.

**Mr Kormos:** I've talked about the penalty sections, recognizing that the maximum penalty for a corporation is twice the maximum monetary penalty for an individual. Obviously that's in consideration of the fact we can't send a corporation to jail, per se. We also have subsection (2), which would — let me lay this out because I want the

advisers here to confirm if this is correct or tell me where I'm wrong. Effectively, under subsection (2), we have a corporation getting fined, yet an officer or director — and I'm not quarrelling with the proposition of an officer or director being subject to not only a fine but an actual custodial penalty simultaneously. I think we have to be clear that one doesn't bar the other, that the two are not mutually exclusive — subsection (2) and subsections (3) and (4).

**Ms Bassett:** We feel that legislative counsel should comment on this.

**Mr Michael Wood:** I can give my opinion as counsel to the assembly on this matter. I would agree with what you have said, that under subsection 21(2) of the act, as proposed in the bill, officers and directors who are individuals can also be guilty of an offence, and since they are individuals they are subject to the penalty under subsection 21(3), in addition to the corporation being subject to 21(4) if convicted of an offence.

**Mr Kormos:** Thank you.

**The Chair:** We're dealing with section 2. Any further questions or comments before I put the question? If not, shall section 2 carry? All those in favour? It's carried unanimously.

Are there any questions of Ms Bassett in regard to section 3? I wouldn't have expected so. Is there any comment? If not, shall section 3 carry? Carried.

We're now dealing with section 4, the short title of the act. Is there any comment in regard to that section? If not, shall section 4 carried? Section 4 is carried.

I now put the question: Shall the long title of the act carry? That is the one on the front page, An Act to provide more protection for animals by amending the Ontario Society for the Prevention of Cruelty to Animals Act. If there's no comment, shall it carry? It is carried.

Lastly, I ask for your authorization: Shall I report the bill to the House? Mr Kormos?

**Mr Kormos:** Ms Bassett has already referred to the comments Ms Boyd made during second reading debate in the House. I want to indicate to Ms Bassett, although I am sure she was confident of this, that obviously the New Democratic Party supports these amendments to the Ontario Society for the Prevention of Cruelty to Animals Act.

I obviously have the greatest familiarity with the humane society down in Welland, which services a number of communities in Niagara. Unfortunately, especially a whole lot of urban dwellers have a very limited or restricted perspective of what humane societies do across the province. Clearly in agricultural, rural parts of the province — and Niagara South, Welland county, is very much a blend of urban and rural — the humane society's role goes far beyond, let's say, canine control, although that in itself is an important function, an important municipal function which is, as often as not, almost inevitably carried on by humane societies, when municipalities, to be very candid, are finding themselves

harder and harder strapped and it seems that humane societies are among the first on the list to be called upon to suffer reduced transfers from municipal governments.

I know in the case of Welland — and I know Bernie Webb, who is the recently retired director of the Welland Humane Society, for whom I have the highest regard, a person of integrity and a real commitment to animals welfare in general and to the welfare of the community. I make note of that because I'm fearful that the role of the humane society is oftentimes not held in sufficient regard. It's a health and safety issue for the community, first and foremost: I'm talking about the community as animals co-existing with their two-legged colleagues, humans.

I want to indicate our support for the bill. Ms Boyd is quite right, it isn't a cure-all of the ills and evils, and it isn't going to resolve some of the tensions that have existed historically and will continue to exist as the debate goes on.

I want to indicate that I don't own any animals now. Charlie the beagle died two years ago. Charlie's the first time I ever acquired a purebred dog. Unfortunately he was a beagle. I recall being referred to an animal trainer in Niagara Falls, a fellow who works for the Niagara Parks Commissions, because Charlie Ryall, who breeds Labs and does field trials with his Labs, said, "You take Charlie the beagle to my friend who works with the Niagara Parks Commission." I thought it was a wonderful idea because Charlie and I had been thrown out of the local obedience schools — both of us had been thrown out, not just the beagle.

**Interjection:** Both animals.

**Mr Kormos:** Well, it's true about dogs and their owners. But I went to the dog trainer that Charlie Ryall had used frequently for his Labs and told him my problems with Charlie. He asked, "What breed of dog is this?" I said, "He's a beagle." He thought for a minute and he asked, "Does the dog bark?" "Yes." "The dog's trained." That's my beagle story.

Charlie used to get busted regularly by the Welland Humane Society, to the point where the humane society would simply get on the phone and say, "Your beagle's over at a house on Wilson Road, it's address 236. Go pick him up, because if we go pick him up, it's going to cost you 50 or 60 bucks," whatever it was that busted beagles get fined.

None the less, having told that story about Charlie the beagle, of whom I have fond memories and who was taken care of on a daily basis by my neighbour Joanne Bouchard, I say, good, let's let this legislation pass and let's be conscious of the incredible pressures put on humane societies across the province as they struggle with municipalities upon whom significant downloading is taking place and for whom the tax dollar is becoming more and more scarce because of that downloading. You didn't think we'd do this committee hearing without me mentioning that, did you, Ms Bassett?



**The Chair:** Is there any further comment in regard to the question I put, shall I report this bill to the House? If not, shall I be authorized to report to the House? All those in favour? Agreed.

There are no other matters before this committee. I thank you, Ms Bassett, for an excellent presentation.

**Mr David Ramsay (Timiskaming):** Do we have any sense of when we might be in a position to have a subcommittee meeting to discuss a bill that might be referred to us? Do we have any progress knowing what we're going to be doing in the intersession?

**The Chair:** We have the time allocation motion passed yesterday which referred Bill 160 to this committee. I

hope to have a meeting tomorrow or Thursday. I understand Mr Wildman has been substituted for Mr Kormos on behalf of the third party, and has Ms McLeod been substituted for yourself?

**Mr Ramsay:** I don't know for whom. We're going to share those duties.

**The Chair:** I hope to have one tomorrow.

**Mr Ramsay:** If we could, that would be great, so we can get that clarified.

**The Chair:** If there are no other matters, we are adjourned at the request of the Chair.

*The committee adjourned at 1554.*

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Mr David Ramsay (Timiskaming L)

Mr E.J. Douglas Rollins (Quinte PC)

Mr Bob Wood (London South / -Sud PC)

#### Also taking part / Autres participants et participantes

Ms Isabel Bassett (St Andrew-St Patrick PC)

Ms Leanne Wong, Toronto Humane Society

#### Clerk / Greffier

Mr Douglas Arnott

#### Staff / Personnel

Mr Michael Wood, legislative counsel



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First Session, 36<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

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# Official Report of Debates (Hansard)

Wednesday 15 October 1997

# Journal des débats (Hansard)

Mercredi 15 octobre 1997

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Education Quality  
Improvement Act, 1997

## Comité permanent de l'administration de la justice

Loi de 1997 sur l'amélioration  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Wednesday 15 October 1997

Mercredi 15 octobre 1997

*The committee met at 1144 in committee room 1.*EDUCATION QUALITY  
IMPROVEMENT ACT, 1997LOI DE 1997 SUR L'AMÉLIORATION  
DE LA QUALITÉ DE L'ÉDUCATION

Consideration of Bill 160, An Act to reform the education system, protect classroom funding, and enhance accountability, and make other improvements consistent with the Government's education quality agenda, including improved student achievement and regulated class size / Projet de loi 160, Loi visant à réformer le système scolaire, à protéger le financement des classes, à accroître l'obligation de rendre compte et à apporter d'autres améliorations compatibles avec la politique du gouvernement en matière de qualité de l'éducation, y compris l'amélioration du rendement des élèves et la réglementation de l'effectif des classes.

## SUBCOMMITTEE REPORT

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen. We have a quorum present and representatives from all three parties. This is a sitting of the administration of justice committee pursuant to an order of the House dated October 6, 1997.

On our agenda this morning is consideration of the subcommittee's report dated October 9, 1997. Could I have a motion adopting that report?

**Mr Bud Wildman (Algoma):** On a point of order, Chair: Am I to understand then that, pursuant to the time allocation motion passed by the Legislative Assembly, holding a meeting today will cut the number of the days we have for public hearings from eight to seven? Is that correct?

**The Chair:** That is accurate, Mr Wildman.

**Mr Wildman:** Thank you.

**Mrs Lyn McLeod (Fort William):** Mr Chair, you're placing the motion of the original subcommittee agreement as to what would constitute a fair and balanced public hearing following the closure motion the government introduced?

**The Chair:** I've asked for a motion. I have not received it yet.

**Mr Wildman:** I would so move.

**Mrs McLeod:** I would second that motion.

**The Chair:** I don't believe we need a seconder, but it is properly moved. Is there any discussion regarding the motion by Mr Wildman to adopt the subcommittee report dated October 9, 1997?

**Mr Wildman:** The motion as presented sets out the consensus that was arrived at among the three caucuses at the subcommittee meeting. It was an attempt to deal with the eight days allocated by the time allocation motion to ensure that as many groups as possible who have an interest in education could be accommodated in hearings on Bill 160, both here in Toronto and across the province. It proposed to hold three days of hearings in Toronto — on one of those days there would be an evening session — to go from there to St Catharines and then to Chatham, and then the following week Sault Ste Marie, Thunder Bay and Ottawa.

Since there were at that point, I understand, 800 individuals and groups who had indicated an interest in making a presentation to the committee on Bill 160, it was obvious that we could not accommodate all of the groups. It was proposed that the representatives of each of the three caucuses would choose from that list groups they felt should be heard and that we would allocate 20 minutes. We would also have a presentation at the beginning from the ministry to brief members. The minister would be allowed to make a presentation, I understand, and the opposition critics would be able to respond, as well as the government, at the beginning for opening statements. Then we would commence the hearings October 20.

I understand now that we have about 1,000 groups and individuals who have indicated an interest in making presentations. It's unfortunate that because of the time allocation motion we can't accommodate all of the people who are interested, but the subcommittee's unanimous recommendation makes it possible to ensure that we hear from as many groups and individuals as possible and to have as balanced a set of hearings as possible. For those reasons, I would encourage the members of the committee to accept the agreement arrived at by the subcommittee.

**Mrs McLeod:** I would speak very strongly in support of the recommendations that have been made by the subcommittee as Mr Wildman has just set them out. Let me be on record: It's no secret that we did not like the closure motion. We didn't like debate on this very contentious piece of legislation being cut off in the Legislature, but at least we took some comfort from the fact that the

government had seen fit to schedule eight days of public hearings. We felt this would provide some opportunity for there to be a public discussion about this bill. This bill is one which introduces changes never before contemplated in education in the province, so the public hearings, in our view, were important. As Mr Wildman has said, there have already been over 1,000 groups or individuals who have requested to make a presentation, and that is essentially before there has been any advertising of the dates and places where the committee is going to be.

The time lines were very tight. As of yesterday, we were advising concerned groups that were calling our office that they only had until Thursday at 5 o'clock to submit their indication of interest to make presentations to this committee. I think it's a measure of public concern about this bill that even before that information had gone out to people, we had over 1,000 groups or individuals who wanted to present.

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I am deeply concerned that we now are in a committee meeting to consider the subcommittee's recommendations, which, as you well know, Mr Chairman, was a totally unnecessary committee meeting. This committee did not have to meet if the subcommittee's recommendations were to be accepted. The subcommittee's recommendations, which had unanimous support of all three parties, would have gone ahead. The committee dates were scheduled. I believe notification has gone out that these would be the communities we would be visiting, and on which dates. People were calling in.

We have now lost one full day of those hearings. We will be losing a day's hearings in Toronto because the government has seen it as necessary to convene this committee today. I very much regret that we have already lost one full day of our committee hearings.

**The Chair:** Thank you very much, Mrs McLeod. Is there any further discussion in regard to Mr Wildman's motion? If not, I'll call the question. All those in favour of adoption of the subcommittee report? All those against? The subcommittee report is not adopted.

**Mr Wildman:** I would ask for a voice vote.

**The Chair:** It's too late. I will note that both opposition parties voted for the motion.

**Mr Wildman:** I would also like it noted for the record that nobody on the governing party side gave any explanation as to why they are voting against a unanimous agreement of a subcommittee.

**The Chair:** Thank you, Mr Wildman. Mr Smith.

**Mr Bruce Smith (Middlesex):** I would like to present the following motion with respect to the business of this committee.

I move that the committee conduct its business as follows:

1. That the committee meet according to the following schedule:

Wednesday, October 15, 1997, in Toronto for the purpose of organization and technical briefing by the ministry staff.

Week 1:

Monday, October 20, 1997, Toronto: 9 am to 10 am for opening statements; 10 until 12 noon for hearings; 1 pm until 6 pm for hearings; 7 pm until 9:30 pm for hearings.

Tuesday, October 21, 1997, Toronto: 9 am to 12 noon for hearings; 1 pm until 5 pm for hearings.

Wednesday, October 22, 1997, St Catharines: 10 am to 12 noon for hearings; 1:30 pm until 5 pm for hearings.

Thursday, October 23, 1997, Chatham: 10 am until 12 noon, hearings; 1:30 pm until 5 pm, hearings.

Week 2:

Monday, October 27, 1997, Sault Ste Marie: 10 am to 12 noon, hearings; 1:30 pm until 5 pm, hearings.

Tuesday, October 28, 1997, Thunder Bay: 10 am to 12 noon for hearings; 1:30 pm until 5 pm for hearings.

Wednesday, October 29, 1997, Ottawa: 10 am until 12 noon for hearings; 1:30 pm until 5 pm for hearings.

2. That the Chair and the clerk of the committee be authorized to vary the travel schedule as required according to logistics.

3. That notice of hearings be provided by advertising on the Ontario parliamentary channel.

4. That notice of hearings be provided by advertising once as soon as possible in English or French as appropriate in the daily newspaper of each community outside Toronto that the committee will visit for public hearings.

5. That the text of the advertisement be as follows:

"Bill 160 — Education Quality Improvement Act, 1997

"The standing committee on administration of justice will meet to consider Bill 160, An Act to reform the education system, protect classroom funding, and enhance accountability, and make other improvements consistent with the Government's education quality agenda, including improved student achievement and regulated class size.

"Hearings on Bill 160 are scheduled to commence in Toronto on Monday, 20 October 1997, and to continue in: St Catharines, Chatham, Sault Ste Marie, Thunder Bay, and Ottawa.

"Interested people who wish to be considered to make an oral presentation on Bill 160 should contact the committee clerk by 5 pm on Thursday, 16 October 1997. Those who do not wish to make an oral presentation but who are interested in commenting on the bill may send written submissions to the committee clerk at the address below by Thursday, 30 October 1997.

"Copies of the bill may be purchased through Publications Ontario at 1-800-668-9938, or at 326-5300 in Toronto.

"Gerry Martiniuk, MPP, Chair

"Douglas Arnott, clerk

"Room 1405, Whitney Block

"Queen's Park, Ontario

"M7A 1A2

"Telephone: 416-325-3506. Facsimile: 416-325-3505. TDD: 416-325-3538. Collect calls will be accepted."

6. That the deadline for receipt of requests to make oral presentations be 5 pm on Thursday, October 16, 1997; and that the deadline for receipt of written submissions be 5 pm on Thursday, October 30, 1997.



7. That opening statements be scheduled for a maximum of 20 minutes per caucus on Monday morning, October 20.

8. That the staff of the Ministry of Education and Training be scheduled to provide a technical briefing on the bill for a maximum of 30 minutes.

9. That the time for those requesting to make oral presentations be allocated as set out in section 10 of this report.

10. That the Chair and the clerk of the committee schedule witnesses on the advice of the subcommittee, with the following conditions:

(a) Invitations shall be issued to the following organizations:

Ontario Teachers' Federation, Ontario Secondary School Teachers' Federation, Ontario English Catholic Teachers' Association, Ontario Public School Teachers' Federation, Federation of Women Teachers' Associations of Ontario, Ontario Public School Boards' Association, Association française des conseils scolaires de l'Ontario, Conseil des écoles catholiques de langue française, Association des enseignantes et des enseignants franco-ontariens, Ontario Separate School Trustees' Association, Council of Ontario Directors of Education, Ontario Public Supervisory Officials' Association, Ontario Principals' Association, Ontario Secondary School Students' Association, Ontario Federation of Home and School Associations, Ontario College of Teachers, Education Improvement Commission, Bill 100 Review — Chair Leon Paroian, Ontario Coalition for Education Reform, Ontario Education Alliance, Teachers for Excellence Ontario, Teachers for Quality Education, Organization for Quality Education, Ontario School Board Reform Network, Ontario Alternative Education Association, Quality Education Network, National Foundation for Family Research and Education, Ontario Parent Council, parent council representatives, Parents in Action, Parent Network (Ontario), People for Education, Ontario Federation of Teaching Parents, Ontario Christian Home Educators Connection, Canadian Alliance of Home Schoolers, Chiefs of Ontario, Indigenous Education Coalition, Home-based Learning Network, Dominion Institute, Metropolitan Toronto Board of Trade, Canadian Federation of Independent Business, Ontario Chamber of Commerce, Taxpayers Coalition Ontario, Ontarians for Responsible Government, Alliance of Manufacturers and Exporters, Ontario Homebuilders' Association, Urban Development Institute, Association of Municipalities of Ontario, C.D. Howe Institute, and the Ontario Federation of Labour.

(b) Each committee member shall have the opportunity to name two individual witnesses of their choosing to appear before the committee and shall provide such names to the clerk by 12 noon, Friday, October 17, 1997.

(c) Other witnesses shall be selected by the Chair of the committee from lists provided by the three caucuses from the committee clerk's list of individuals and groups who have asked to make presentations.

(d) Presentations by witnesses shall be limited to 10 minutes, except for those invited pursuant to section 10(a), who shall be allotted 30 minutes.

(e) Cancelled slots will be filled at the discretion of the Chair with names from the appropriate caucus list.

(f) Within these parameters, final scheduling authority shall be delegated to the Chair of the committee.

11. That the research officer provide a summary of presentations prior to clause-by-clause consideration of the bill.

#### 1200

**Mrs McLeod:** I actually came in this morning believing that the newly appointed Minister of Education might just mean what he said when he said he wanted to sit down and talk. I thought he wanted to find some resolution to this, but clearly I was misreading the words. What this government has done with this amendment today is to declare war, not just on teachers — that's a given — but on public education. I cannot believe that this minister, who just a few days ago began by purring about conciliation, would today take this kind of step and do that in face of 126,000 teachers who had their strike plans ready to go but were prepared to put them on hold until they had a chance to hear what this new minister had to say to them.

Today we see what the new minister has to say to those 126,000 teachers. With this amendment we see absolute evidence, if any more evidence was needed outside of Bill 160 itself, that this government's agenda is to take total control. Never before — and you can ask anybody who's been here any length of time; ask any of the clerks, ask anybody who's chaired a committee before — have we seen a government amendment to a subcommittee decision that constituted taking over total and complete control of the public hearing process. That's what this does. Make no mistake about it. The government has given us a list. That list at this time contains some 47 names. I suspect that although we have proposed other names, and I will propose amendments to add those other names to the list, those 47 names are the ones that are going to go forward.

Anybody else, any of the 1,000 or more groups or individuals who have called and said they wanted to make representation will be excluded unless they are on the minister's hand-selected list. On top of that, if there is not now time to hear all of these groups on the minister's list before we leave Toronto — and we have a day's less hearings in Toronto because of this change — any of the groups that have not been heard from the minister's list will be heard first in other communities before anybody from those other communities can be heard.

The other thing that will happen, even if we get through this handpicked list by the minister, is that when we do get to the process of selecting — and of course we know we can't accommodate all of the people who call and want to be accommodated. This has nothing to do with trying to create more opportunity for people to be heard; this is about excluding people. But at least in every committee we've all participated in before, when we've sat down to look at those lists of the thousands of people who want to

make their views known, we've had a process of selecting where the opposition parties get to choose some of those people to present and the government members get to choose some of those people to present. That process is essentially gone.

For the first time ever, that process that brings some balance and fairness to the public hearings is being thrown out the window by the government with this small part of the amendment; it's (b), and the parliamentary assistant skimmed over it fairly quickly. What it says is that the government members will call 15 witnesses to this committee while the opposition members will call a total of nine. If there's any time left over after the government's control exercise is carried out, then there might be time for the odd other individual to get on the list.

I want now, because this may be one of my only opportunities, just to acknowledge some of the people who have suddenly been excluded from this process by the unilateral development of a list by the Minister of Education, although let me also make it very clear that there is no way I believe David Johnson as the new Minister of Education has suddenly produced a list of people that includes every right-wing educational group and every home-based schooling group that you could find anywhere in Ontario. He didn't have time to do that.

I think it's pretty clear that the production of this list on Monday morning tells us who is running education in Ontario. It is not the Ministry of Education and it is not the Minister of Education; it is Mike Harris's office. If we want to name names, from everything we hear, let Guy Giorno come and testify to this committee and tell us why he has produced a list of people, an exclusive list of people that includes every right-wing education group and every home-based schooling group and every advocate for privatization of education he could find in the province.

Let me tell you some of the people who have just suddenly been excluded by this government's list. I met with a group of Scarborough students yesterday. They represented the students of all the Scarborough student councils. They are a representative group of students. They came with a petition. They came asking to know how students could have their voices heard and they said what I hear from an awful lot of students, "This affects us more directly than it affects anybody else, but nobody ever asks us what we think." I said: "We will make sure you are heard. Give your name to the clerk. You've got to decide by Thursday, but you as students have the right to come forward and make your views known in a public hearing."

They were excited about that opportunity. They couldn't quite believe that the democratic process would give an opportunity to them as representatives of their student bodies to come forward and publicly, directly state their views. I have to go back after this meeting and phone them and tell them, "I'm sorry but the democratic process just suddenly changed in Ontario, and you're not on the minister's list so you're not going to be heard."

There is, I acknowledge, the Ontario Secondary School Students' Association. There are some groups that the minister couldn't leave off his list. He had to put the

official representatives of teachers on his list so they could at least be heard at some point in this process, and he has a representative of the students' association. I'm glad they're there. I had called to ask if they would make a presentation as well, but I am truly sorry that those Scarborough students, who particularly asked if they could come and be accommodated after school so they wouldn't miss any school to make their views known, are going to be told that their views can't be heard at all.

I am very concerned that none of the principals' associations are going to be heard, unless the government members will consider an amendment to this amendment. We had a group of principals who came from Scarborough last week and who found it very difficult to come and hold a press conference to make their views known. But they were so concerned about what's happening in their schools and what they believe this government's agenda and this government's bill will do to their schools that they felt they had to come and speak out. They also asked if they could come and be witnesses in the hearings that were supposed to be public, and they've been told today that they cannot have a voice at these so-called public hearings.

The Ontario Education Alliance has not made it on to the minister's list. I can understand why from the government's perspective, because Jacqueline Latter has been, I guess it's fair to say, a thorn in the side of the government's agenda from the time that agenda started manifesting itself in legislation. Jacqueline Latter has actually managed to bring together a network of parents across this province who are concerned about education. She has been effective in building that network, she has been effective in giving parents a voice, and I guess the government just doesn't feel they can afford to have anybody who could actually bring some cohesion and public voice to parents' concerns.

Who do we have representing parents here? We have the Ontario Parent Council. The government will say, "We've got parent councils represented and we've got parents represented through Bill Robson, senior policy analyst for the C.D. Howe Institute," who by the way get time of their own on the list. The Ontario Parent Council will be represented formally and officially only through the direct appointees of the Minister of Education. But there is not room on this list any longer and there will not be time left in our committee hearings to choose any of the other parent councils that have asked to make presentation, as parents concerned about education, to this committee, because they've been excluded.

1210

Those are just a few of the groups that have been excluded with this amendment. I am going to ask the parliamentary assistant if he would consider adding those groups to the list so that they can at least be heard. That will not make up for the, I don't know, 965 other people who are on the list who are about to be shut out of the process, but at least those groups that I know well could be added.



Lastly, I want to say that I am personally deeply angered that I would come into this committee to participate in a democratic process which I think has been the underpinning of everything we've done in this Legislature and be faced with what is pure and simple blackmail on the part of the minister. We came into a meeting prior to this committee and we were told that we could get back our extra day of hearings and we could even get my two or three groups that I felt really anxious to have included on the minister's list, we could get those on providing we would agree to give up all precedent and all tradition in the opposition's role in ensuring that there is balance in the witnesses who are heard in public hearings.

We could not get give up that role. We could not accept being blackmailed, nor could we give up the role that we play as opposition in ensuring that those who are critics of the government get a fair hearing. If this government is determined to silence its critics, it will do so, but it will do so in a public way. We know that Bill 160 signals the end of any kind of public debate on education in this province because from this point on everything that is done in education will be decided by cabinet. It will never get back into the Legislative Assembly. There will be no public debate; there will be no public hearings. But we could not accept that with this last set of public hearings on education we would agree to having the public hearing process turned into a sham.

I would just add, finally, that there is no need to try and make a pretence that this committee is going to use its time usefully this morning by having a technical briefing. Mr Wildman and I have already had a technical briefing with the ministry. If the government members needed a technical briefing, I'm sure they could have availed themselves of that outside of committee time. It would have been inexcusable to have used even half an hour of this committee's time from the public hearings on Monday; it is unnecessary today.

**Mr Wildman:** I want to express sincere disappointment at what's happening here this morning, first that we are losing a day from the hearings in Toronto that were agreed to unanimously by the subcommittee last Thursday. I'm also disappointed that the government members who voted against that unanimous recommendation of the subcommittee did not give any explanation as to why they were rejecting that proposal.

But I want to get to the parliamentary assistant's motion in particular. The most important parts of this motion are 10(a), (b) and (c). In my view, 10(a), (b) and (c) are unprecedented in this House. What is really disappointing is that this is from a new Minister of Education who as House leader always maintained the position that committees of this assembly set their own agendas. What we have here is an attempt by the minister and his staff, and I suspect the Premier's office, to stack the presentations before this committee, to make a mockery of the whole public hearing process.

What we have is a list from the minister under 10(a) which includes every right-wing group that has demanded

cuts in education or privatization of education, voucher systems, charter schools, home schooling, every one of them — and they're each to be accorded a half an hour. We also of course have the teachers' federations; they couldn't avoid putting them on the list. But they don't have any — oh, they have one. Sorry, there is one parent group which might be seen as being opposed to Bill 160. All of the other groups that are listed on here are either going to be in favour of Bill 160 or, frankly, will think the government isn't going far enough.

In 22 years in the assembly I have never seen this happen. When we have a time allocation motion and we have a limited number of days set aside for hearings on a bill that has tremendous public importance and has an enormous amount of public interest, we are always presented with a problem because inevitably we always end up with too many groups and individuals who have expressed an interest in making presentations to be accommodated.

What do we normally do? There are two procedures that have normally been followed in committees. One is for the subcommittee to have each of the caucuses choose from the list of people who have expressed an interest, so that they can gain some balance. In most cases, those lists are agreed to unanimously and recommended to the full committee by the subcommittee. Then if we are able to accommodate all of those groups and there's still time left, we can choose from the rest of the groups that have said they want to make representation. That is the most commonly used approach.

The second approach that is sometimes used in committees is for each of the caucuses to choose from the list but also for the Chair to choose from the list, so that there are four lists then and you rotate them. In the subcommittee that approach was also suggested and was rejected, I might say, by the government representative on the subcommittee. So we set about as per the subcommittee agreement to choose from the 800 or so individuals and groups that have indicated they wanted to make presentations, and now we are presented with this list.

This list will more than take up all of the time of the Toronto hearings. There's about a 30-20 split — 30 for the government, 20 opposed — on this list. Now if that's not an attempt to stack, I don't know what it is, when you consider that the vast majority of the groups and individuals of the now thousand who have indicated they want to make presentations are not in favour of Bill 160.

Then you go to 10(b) on the motion and it says, "Each committee member will have the opportunity to name three individual witnesses of their choosing to appear before the committee and shall provide such names to the clerk by 12 noon, Friday, October 17, 1997." This means that each individual member of the committee will be able to choose three. Inevitably that means the government members will have 15 and the opposition will have nine. I somehow doubt that the government members are going to choose to hear local teacher organizations when we go to these communities. I suspect they'll be more like the Ontario Coalition for Education Reform or the Ontario

Alternative Education Association. But I don't want to prejudge it; perhaps the government members will be balanced in the groups they choose.

But I want to point out that I checked with the clerk of this assembly on this proposed amendment. No committee of this assembly has ever used this approach — ever. In the history of this place it has never been done this way. Again, this is an attempt to stack, it's an attempt to ensure that the government has more presenters in favour of their position than presenters opposed, which is not, I might say, representative of the thousand groups and individuals who've indicated an interest in presenting to this committee.

1220

My friend from Fort William has indicated that some of the groups that were obvious are not on the list: students, the education alliance. I'd like to know why Jacqueline Latter is not on this list when groups like the Organization for Quality Education are. I'd like to know why, since this legislation mandates school councils, there are no school councils on this list. The Ontario Parent Council is not representative of anyone but the minister. That was demonstrated in the hearings on Bill 104 when they appeared in favour of Bill 104 and every other parents' group that appeared before that committee opposed it. Any pretence that the Ontario Parent Council represented active parents interested in education in this province was destroyed in those hearings. The principals, as was mentioned, are not on the list either.

Now 10(c) says, "Other witnesses shall be selected by the Chair of the committee from lists provided by the three caucuses from the committee clerk's list of individuals and groups who have asked to make presentations," and then they will "be limited to 10 minutes." In other words, after we've heard this list that has been presented by the minister, after we've heard all of the presenters chosen by each of the committee members, only then will the other people on the list of over a thousand who've indicated interest have a chance to make a presentation — only then.

Frankly, I believe it is bizarre that we might find ourselves in Chatham or in St Catharines listening to presenters on the minister's list because it's too long for the hearings in Toronto, particularly now that we've lost one day. We may in fact be hearing from the Metro Toronto board of trade in St Catharines instead of hearing people in St Catharines, which is the reason we're going to St Catharines.

I said this is disappointing. It's more than disappointing; I think it indicates unfortunately where this government is intending to go in this crisis. From the list that has been presented by the parliamentary assistant on behalf of the minister, it's obvious that in trying to stack the presentations to give the impression of greater support among presenters than there really is, the government is at the very least trying to give an inaccurate impression of the views of those who have indicated they want to make presentations, and at the worst the government is in fact

intending to pick a fight, because in presenting this, they have picked a fight.

They picked a fight on the committee. They put the parliamentary assistant in an untenable position where he agreed to the subcommittee's recommendations on October 9 and now he's having to vote against them here today and present a motion on behalf of the minister which is in contravention and completely opposed to the recommendations of the subcommittee. It's obvious that this government unfortunately has decided not to make a compromise.

I was hoping that the cabinet shuffle and the appointment of Mr Johnson as minister was an indication that the government was prepared to move and try to avoid a confrontation with the teachers of this province that would disrupt the education of our students. I can only conclude from the list that has been presented by the minister and from the section in the amendment which will ensure that there will be more pro-government presenters than opposition presenters, that this is an indication that this government is going to bull its way through on this bill, that it's going to go forward. It's going to pass it over the objections of the very people who are responsible for delivering education to our students in this province.

To say the very least, I find that very disappointing. Wearing my other hat as the House leader for our caucus, I can tell you that there is no way I can agree to 10(b). It is unprecedented in committees, it has never been used in this assembly before and this committee cannot in any way be seen as setting a precedent that will allow the government to stack the presenters. It's not democratic, it's not in line with the practices of this assembly, it's completely unacceptable, and for that reason I'll be voting against this.

It's obvious that the government has the majority on the committee. If the government is determined with the minister to bull this through, it'll happen, but I'm afraid that's an indication of what they also intend to do with the legislation.

**The Chair:** We have Mr Smith and Ms McLeod.

**Mr Smith:** Thank you very much, Mr Chair, and certainly for the opportunity to put some remarks on the record. I would, in fairness to Mrs McLeod, indicate to her that perhaps upon review of the motion she will see that the Ontario Secondary School Students' Association, the Ontario Principals' Association and the Ontario Education Alliance were read into the record, as well as a block set aside for parent council representatives. I know that's been left open and that you have interest perhaps in responding to that, but each of those groups will have a 30-minute time allocation dedicated to themselves in terms of making a presentation before this committee.

I freely admit as the person who is responsible for brokering agreement on behalf of the former Minister of Education last week that this is an interesting position to be in, but one that very clearly is reflective of the new Minister of Education's intention to solicit and receive, as much as possible, input from a range of perspectives on education reform in this province. I don't see it personally



as an attack on teachers or an attack on public education, but as an exercise to ensure that we hear and receive a balanced representation from interested parties, including teachers, trustees, parents, unions, businesses and students. I think that should be made very clear.

Obviously the minister fully recognizes the obvious interest in Bill 160. His open-door policy in terms of receiving input remains in effect, notwithstanding the work of this committee, and the proposed motion before us doesn't compromise any dialogue in terms of what might happen outside of this committee setting occurring and continuing to take place.

I think we realize that today constitutes a committee day. We've attempted to extend the hearing dates and add additional times on Monday and Tuesday through evening sittings and by starting earlier. Certainly there are points of view that we want to hear while we're in Toronto. They're important points of view and we're attempting to accommodate them. The proposal that we have in the motion would effectively allow for approximately 23 additional deputants to make presentations within the context of the eight days that have been allotted for public hearings on this bill, so there are additional opportunities for people to make presentation.

Mr Wildman spoke to three contentious areas of the motion. Based on his 22 years of experience in the Legislature, at some point there is an appropriate time for some departure from that. We feel that by establishing the list there is a balanced representation pursued here. I guess under 10(b) the minister has felt very strongly. Too often we've heard criticisms from others about the ability of members to provide or have or solicit input from people who have expressed interest to them, to have them have a direct say. This clause effectively empowers every committee member in this chamber to bring forward deputants to make presentations before this committee.

It's an issue that the minister felt strongly about in terms of his ability to empower all members of the committee. In fact, once you look at it, and as I read into the motion, we're effectively dealing with two, not the original three, designations per member of the committee, which would leave the government in a position of designating 10, the official opposition four and the third party two.

**Mr Wildman:** So it's 10 to six groups rather than 15 to nine.

1230

**Mr Smith:** That's correct. We're talking about four positions; you're arguing over four deputants. I realize that's an important position for you to articulate, but I think in the context of what we're trying to achieve, there is a reasonable balance in terms of the numbers that have been identified in this motion. Certainly in terms of accommodating additional people we have had to move to the 10 minutes. I realize that is problematic for some people, but at the same time it should provide reasonable opportunity for deputants to speak clearly and concisely to the issues at hand within Bill 160, and at the same time

some time for committee members to respond, either by statement or short question.

I think, by and large, recognizing where we have been, the fact that we have a new Minister of Education who wants to take a different approach in dealing with education reform, the business of this committee, we believe strongly that this provides a balanced approach to receiving input on education reform in this province.

**Mrs McLeod:** I originally put up my hand to speak again on this because I wanted to acknowledge the fact that there is a new list that has been produced in the 10 minutes that we broke between the subcommittee and the committee and that the Ontario Education Alliance made it on to the list as well as some minimal opportunity for additional parent council representatives.

But when I hear the parliamentary assistant attempt to speak to the minister's reasons for making these changes, it leads me to believe that what is happening here is exactly the strategy that the minister is likely going to use in dealing with Bill 160 in negotiating with teachers: You put forward your original position, and it is shocking, horrifying, totally unacceptable, and then you put a couple of bits and pieces back on the table and say, "Now you should be satisfied."

As Mr Smith well knows, we were prepared to live with the minister's list as long as we could get some additions to it and as long as there would be a balance in the selection which is contained in clause (b) and which is not addressed by simply having opposition members get to pick two each as well as the government members picking two each.

Mr Smith, I acknowledge that the education alliance is there. I don't know why they were not on the list in the first place. They should have been. I'm glad to see there will be some principals' representatives and some council representatives. But what this does, because there is no balance in the selection, is exactly what Mr Wildman suggested, which is make it necessary for even more groups, like the Metropolitan Toronto Board of Trade, to be taking over the St Catharines hearings, so that people from St Catharines will not have an opportunity to be heard. I have to say if this is the new minister's idea of an open-door policy, then there is absolutely no hope for real negotiations with teachers.

We came into these committee hearings believing that this was to be a genuine public consultation. The minister may think this is some kind of a negotiating game we're playing here; we didn't believe it was. But it has been turned into a complete and total sham, and the very nature of the minister's intention to take total control of these hearings and to provide a distorted perspective on this bill confirms what this government's real agenda is.

There is no doubt and should be no doubt in anybody's mind any longer that the first part of the agenda is to take total control, and the second part of the agenda, as clearly confirmed by the way in which these committee meetings will be stacked, is to move education in Ontario so far to the right that it will be unrecognizable and to open the doors indeed, but not to discussion with teachers, not to

discussions about how we can improve the quality of publicly funded education, but to how we can open the doors to privatizing education in Ontario. This is a declaration of war; it is not an opening of a door.

**Mr Wildman:** Just in response to the parliamentary assistant, I think I have some understanding of his position. I'm not trying to shoot the messenger here. But the motion as presented is not just an argument over four spaces in making presentations but rather a question of fairness and ensuring that as many of the groups and individuals of the over a thousand who have indicated an interest in making presentations get an opportunity to do so.

The motion prevents that, and it is an attempt, as I said, to stack the presentations and to give the government the appearance of having more support among those who have expressed an interest in making presentations than they actually have. I must say I'm not too surprised, although I'm disappointed. Bill 160 is an attempt to centralize control over education here at Queen's Park in the hands of the minister, and it's obvious now that the purpose of this motion is to centralize control of the committee hearings in the hands of the minister.

I had hoped coming into these hearings — and I honestly, genuinely mean this — that we were going to be attempting to find some way out of an impasse that had occurred between the previous minister, Mr Snobelen, and the teachers of Ontario. I thought the shuffle and Mr Johnson's appointment might be a signal that the government was prepared to make changes to Bill 160, changes in its agenda on education, that might avoid a confrontation that would disrupt the education of students in Ontario.

Unfortunately, by presenting this motion, the government and Mr Johnson are sending the exact wrong message to the teachers. Basically what the government is saying and what Mr Johnson is saying is, "We are not particularly interested in dealing with your concerns with Bill 160; rather we want to hear a lot of presenters who will be in support of the bill as is or probably think that the bill doesn't go far enough." That just indicates to me that there isn't going to be real change and that we may face a strike among teachers before the end of these hearings.

I apologize to the parliamentary assistant for not seeing the two changes that he mentioned — I was reading from the original draft — but I cannot accept a situation which will make it impossible for as many people as could be accommodated from the list to be heard. For that reason, I am opposed to this, and I hope it doesn't serve as a precursor for the intention of Mr Johnson, who I understand is not meeting with the teachers this week, to just move forward on the agenda of Mr Snobelen.

What this does indicate is that this is a government agenda, it wasn't Mr Snobelen's agenda, and Mr Johnson apparently is just going to move forward with it and get as many supporters as he can before this committee. We're not going to see any kind of compromise or change that might avoid a confrontation that will bring an end to

classes for students in this province, so we should be prepared, before the end of these hearings, for a work stoppage and closure of schools and students being out of school when they should be there.

**Mrs McLeod:** Just a question, Mr Chairman, for the parliamentary assistant: I realize there were a couple of names added very quickly in a five-minute space of time, and I don't know the answer to this question, but I'm not sure that there is an Ontario Principals' Association. There may be elementary principals, there may be secondary principals, there may be public principals, there may be Catholic principals, but I don't know if there is an Ontario Principals' Association.

**Mr Wildman:** I think there are probably two, public and Catholic.

**Mr Smith:** It may require some clarification on the group that we have labelled here. It was intended to meet the expectation you had in terms of having principals —

**Mrs McLeod:** I wanted a number of principals' associations. There is one that I know is already on the list, the Scarborough Principals' Association. I suppose technically you can still request by Thursday at 5 o'clock, although it becomes a moot point because nobody can get on the list any longer; Toronto is filled by the minister's list. Had they had a chance to request, we would have been able to select, say, an elementary principals' association, a secondary, a separate school. I quite frankly don't know how you attempt to accommodate the views of principals by having only one group, so I don't know how this invitation can even be issued, Mr Smith.

**Mr Wildman:** Somehow Johnson's list doesn't ring the same way as Schindler's list.

**Mr Smith:** I'll undertake to ensure that we've got the right label on the group.

1240

**Mrs McLeod:** It's not a single group, that's the problem.

**Mr Smith:** I hear your point of view. It was intended to provide a 30-minute time slot for principals' associations, so if there's clarification required we'll endeavour to do that very shortly.

**The Chair:** Is there any further discussion?

**Mr Dan Newman (Scarborough Centre):** I move that the motion be amended by replacing "5 pm" with "6 pm" in the Tuesday, October 21, 1997 hearing time.

I reviewed the subcommittee report and the motion and realized that there was an hour's difference in times. I spoke to the House leader's office and it was a transcription error. I think if we're going to have this motion, there should be the equal amount of time for public hearings.

**The Chair:** I'm sorry. Are we dealing with Tuesday, October 21?

**Mr Newman:** Yes, that the 1 to 5 pm slot be changed to 1 to 6 pm.

**Mr Wildman:** Since committees have their own agenda, I don't think it really was necessary to phone the House leader's office.



**The Chair:** Is there any discussion of the proposed amendment?

**Mrs McLeod:** Any extra time you get I'm happy to agree to, but I'm not sure — you're saying equalize the length of the two days so we don't end up —

**Mr Newman:** No, the point is, Mrs McLeod, when I looked through what the subcommittee had and what was being moved here today, I wanted to ensure that the amount of public hearing time, in actual hours, be the same.

**Mr Wildman:** The same as if it had been three days.

**Mr Newman:** Yes. I'm just ensuring that we have the same amount of time.

**Mr Wildman:** I don't think we need to vote. I just think we need to agree.

**Mrs McLeod:** I like the idea. Could we ask the clerk of the committee to do a tally of exactly the number of hours we would have had and whether this equalizes, if it does.

**Mr Newman:** That's why the one hour. I did excel in math.

**The Chair:** We have Mr Newman's motion to amend, which simply gives one extra hour in Toronto. Is there any further discussion of the motion to amend?

**Mrs McLeod:** I'll support it, again on the grounds that any extra length of hearing time is desirable. I don't want the record to go uncorrected, though, that we somehow have with this opportunities for 23 more presenters to present. If we can get equal time in terms of time lost for hearings, that's one thing. But the government has also changed the subcommittee recommendation from 20-minute presentations to 30-minute presentations as well as presenting its very restricted list of who can present in that time frame.

**Mr Wildman:** Can I ask a question? Just in terms of logistics, how long does it take to drive from Toronto to St Catharines?

**The Chair:** Two hours as I understand it, approximately, but that depends on the traffic.

**Mr Wildman:** So conceivably the committee could leave on Wednesday morning at about 7:30 from Toronto rather than travelling on Tuesday evening, and we could hold hearings in Toronto in the evening.

**Mrs McLeod:** You could also start at 9, Bud.

**The Chair:** Anything is theoretically possible. The difficulty is that with the state of our highways these days we may not get there at our appointed time and that makes it very difficult for people who expect us to be there on time and are making presentations.

**Mr Wildman:** I understand that. I was thinking of that as a way of ensuring that perhaps at least the minister's total list for Toronto could be exhausted in Toronto rather than carrying over to St Catharines.

**Mrs McLeod:** I would certainly be amenable to sitting for at least another couple of hours and we could still go to St Catharines in the evening.

**The Chair:** Right now, we're dealing with Mr Newman's motion, which is a motion to amend Tuesday,

October 21, to provide for a 1 pm to 6 pm hearing. That is the motion that is before this committee.

**Mrs McLeod:** You could accept a friendly amendment.

**Mr Wildman:** A friendly amendment that we sit from 7 to 9:30 in the evening as well.

**Mr Newman:** I think if you have the same amount of time as was agreed upon by all three caucuses, that's the important issue.

**Mr Smith:** Mr Chair, if I may intervene, I appreciate your call that we have a motion before us. We certainly would be agreeable to adding the additional time that both Mrs McLeod and Mr Wildman have spoken to. Perhaps to 8:30? I leave to your discretion how to deal with that motion.

**The Chair:** Okay, it's Mr Newman's motion and he is the one who has to agree to a friendly amendment. The suggestion is that there be an addition and we sit on Tuesday, October 21, from 7 pm to 8:30. Since we have to go to St Catharines, that makes sense. Mr Newman, does that amendment meet with your satisfaction? Mr Newman's amendment is therefore as presently stands to sit on Tuesday, October 21, 1997, from 1 pm to 6 pm, with an evening sitting from 7 pm to 8:30 pm.

Any further discussion of Mr Newman's amendment? If not, all those in favour of the amendment? The amendment is carried.

We are now dealing with Mr Smith's motion, as amended by Mr Newman. Is there any further discussion of Mr Smith's motion? If not, all those in favour? Did you wish a recorded vote?

**Mr Wildman:** Yes, a recorded vote.

#### Ayes

Boushy, Newman, Parker, Smith.

#### Nays

McLeod, Wildman.

**The Chair:** The motion is carried. There is a scheduled technical briefing. Perhaps we could take a five-minute adjournment and return for a briefing which is expected to take approximately 20 minutes.

**Mrs McLeod:** Chair, I realize ministry staff have been here for some length of time. As I indicated, Mr Wildman and I both already had technical briefings. I'm not planning to return for a further technical briefing. I'm not sure if the government members feel that this is the best time for them or not, but —

**The Chair:** We'll determine that. I have not received a technical briefing yet, so —

**Mr Wildman:** I appreciate that. But frankly, whether I have received a technical briefing or not, I be returning in protest of the fact that we're doing this and I'm opposed to the whole process. I'm opposed to losing one day's hearings in Toronto, and for that reason I won't be returning for the technical briefing.

**The Chair:** Thank you, Mr Wildman. We are adjourning. Mr Smith.

**Mr Smith:** Given the fact that the ministry officials have been here, I'd like to proceed with that technical briefing now if possible. Certainly the government members will be remaining in attendance for that exercise.

**The Chair:** Fine, we can proceed.

1250

### MINISTRY BRIEFING

**The Acting Chair (Mr Jim Brown):** Would the ministry officials say their names for Hansard and specify who is going to begin, please.

**Ms Nancy Naylor:** My name is Nancy Naylor; I'm with the Ministry of Education and Training. I'm joined by my colleagues Bill McInerney, Drew Nameth and Margot Trevelyan. We'll be providing the technical briefing for the members.

We will be sharing with you three pieces of paper that I believe are being distributed now. One is a copy of Bill 160, one is a copy of the compendium that accompanies that bill and the third piece is the presentation we will be speaking to today, which provides a plain-language description of the bill's content.

Could I ask the members, do you have this? It should have the date October 15 on the front.

**Mr John L. Parker (York East):** I want to know, what page does the plain language start at?

**Ms Naylor:** It's all plain language. I will just say briefly in introduction that this bill is an amending bill to the Education Act. It continues the implementation of the government's announced intentions to reform the Education Act, which were begun with the passage of Bill 104, which received royal assent on April 24 of this year.

This bill, the Education Quality Improvement Act, has three major sections, and we will be speaking to those in turn. Mr McInerney will speak to the governance provisions, Drew Nameth and I will speak to the finance provisions and Margot Trevelyan will speak to the collective bargaining provisions.

With that, I will ask Bill McInerney to begin on page 6 of your slide package.

**Mr Bill McInerney:** Bill 160 provides for the establishment of the new district school boards of which there will be 72, a reduction from 129. You can see on that slide that they will be comprised of 31 English public district school boards, 29 English Roman Catholic, four French public and eight French Roman Catholic.

The bill does not make any major changes to school authorities, which are usually small jurisdictions operating a single school. There are now and will continue to be 37 of them, including six hospital boards. There will be 21 public school authorities and 10 Roman Catholic school authorities, most of which are in northern Ontario — not all, but most.

On the next page we talk about electors and supporters. Property taxpayers under this bill will continue to indicate or designate which of the four major types of school

boards they will support with their property taxes. If no designation is made, the bill provides the same default process as currently exists in the English public school system.

Essentially, at the elementary level the right to attend falls to the child whose parent is a supporter of the school system. It's the supporter status that gives the elementary child a right to attend. At the secondary level, open access, which began with the extension of separate secondary schools in the mid-1980s, continues between public and separate boards so that students may choose to go to either public or separate secondary schools.

Between English and French district school boards there will be access for supporters of French-language boards, who would have the right to have their children attend schools operated either by the English-language board or the French-language board. Section 23 right-holders would have that option: English or French public to public or English-French separate to separate.

On the extension of separate schools, which I spoke about just briefly a moment ago, there are approximately seven school boards in Ontario now that are not extended, that is, authorized to provide secondary education. Under this bill all separate district school boards would be deemed to be extended, that is, authorized to provide secondary education, and in the past those boards which did not have secondary authorization elected members to represent the interests of the Catholics on the public school boards which provided secondary education for their children. That right will no longer exist under Bill 160 if it passes in its present form. Separate school reps on public boards would be removed.

The rights of those teachers who were protected from the mid-1980s until the present — they were called designated teachers, after the extension of funding to Roman Catholic secondary schools — would remain protected, so the bill provides them with the same protections as they had for the last 12 years. But there would be no new designations as a result of the possible extension of those remaining seven or so areas of the province.

With regard to trustees and trustee allowances, the district school boards will be allowed to set an honorarium, an allowance for their trustees, but it will be to a maximum of \$5,000 for each member — it can be reduced below that — with an additional allowance for the chair and the vice-chair of that same amount. The school authorities will essentially continue to operate under the same provisions of allowance that they were operating under on December 1, 1996, for members, chairs and vice-chairs, with a provision in Bill 160 for the Lieutenant Governor in Council to make regulations in future governing the allowances for those members of school authorities.

Additional to the allowance for each member, boards and school authorities can adopt policies allowing for trustee and student representatives to be reimbursed for actual out-of-pocket expenses for things like travel and so forth.



The bill provides for the use of electronic means for the holding of meetings of the board or committees of the board, and there will be written guidelines for that to take place. The idea would be to make board meetings more accessible and to try to minimize travel. The bill provides that members who take advantage of that opportunity must be physically present for at least three meetings in a 12-month period.

The minister may issue guidelines concerning the roles and responsibilities of trustees and senior staff and the EIC has been asked to provide the minister with recommendations in that regard. That's in fact what they're doing this week; they're moving around the province getting advice. They will provide that advice to the minister.

With regard to advisory school councils, in 1995 a program policy memorandum required that by June 1996 every school have a school advisory committee. This act will enshrine that policy memorandum in legislation and regulations would be written to govern the establishment, composition and functioning of those school councils. Almost all schools have a council in place now. Bill 104 asked the EIC to consult and to advise the minister further on the feasibility of strengthening parent involvement in school governance. In time, the EIC will do that as well.

Each district school board will be required to have a special ed advisory committee. The minister will have the power to regulate the composition, function and operating of them and he may also make regulations requiring school authorities to establish special ed advisory committees.

Special ed tribunals: some changes there. Although the special ed tribunals have been in place in the past, the Lieutenant Governor in Council would establish one or more special education tribunals. The regional special ed tribunals will be eliminated to streamline the process, as recommended by the Wood task force.

This bill provides for student representatives. District school boards and school authorities would be required to appoint at least one non-voting student rep to attend board meetings. Their expenses would be covered, but they would not be eligible to attend in camera meetings of the board or to vote. Regulations will be written, according to this bill, to establish the type of representation and their participation.

With regard to directors of education, all district school boards will now be required to have a director of education, although sharing will be permitted between boards if they wish. There will be no changes to the qualifications required for directors of education.

1300

The Languages of Instruction Commission, which was put in place to deal with disputes involving minority languages rights, is being continued, but downsized, and being put in place only for possible disputes within school authorities. There should no longer be disputes in school boards because there will be French-language school boards and English-language school boards now, so that area will no longer be needed. The number of members

will be reduced. It will be retained to resolve disputes in school authorities, should it be needed.

There are some additional powers in this bill for the EIC, as we move from the school board situation to the district school boards. You can see them there: their ability to hold in trust, transfer and vest assets; the transfer of liabilities and so on among district school boards, employees as well. There will be a requirement of a district school board designated to provide for and on behalf of another district school board services they can't provide. When French-language school boards get established, some of them will not have the infrastructure in place to begin paying their people, to begin the benefits structure, to transport and maintain their schools, so a majority-language district school board would be empowered under the powers of the EIC to continue to provide for a period of time for them.

This bill will allow district school boards to have some organizational meetings prior to January 1, after the election, to do such things as the EIC identifies, but essentially to do things like adopting bylaws, hiring a director and selecting a chair. The new district school boards will not take over their full functioning until after January 1.

The last pages I will deal with briefly are the recommendations on improving the quality of education, a response to the EIC. The EIC, as you know, reported to the minister, as requested, on the areas listed at the top of that page. The former minister indicated that he accepted their recommendations in principle but was looking for further consultation. In order to provide for certain opportunities within the bill in case the minister and the government decide to act, the Education Quality Improvement Act contains provisions for new and clarified regulation-making power to give the government the ability to act on recommendations around limiting class size; increasing instructional time, including limiting exam days; reducing teachers' non-instructional time; and the others that you see there.

That finishes the governance section of it.

**Ms Naylor:** We will be moving on to the finance parts of the bill. On page 15 of the slide package there is a diagram which outlines how these provisions are structured. They are divided into six parts and they are labelled alphabetically. I'll be speaking quickly to each part.

Part A deals with general provisions which govern how a school board goes through its financial year and how it is required to govern its financial affairs. It contains provisions which allow the minister to provide grants to school boards, and this will be the regulatory authority which will allow the minister to make grants according to the new funding model to school boards.

I would bring to your attention one of the commitments in this part of the bill, which is that those grants will be provided in a fair and non-discriminatory way among the school boards. The drafting of this part of the bill commits the government to providing those grants in a way which respects both the constitutional and Charter of Rights and

Freedoms standards as they apply to education funding in Ontario.

Other provisions in this section govern how boards do their annual budgeting, require them to have balanced budgets, and provide for any deficits which might arise as a result of the previous year.

I will note that the school board fiscal year is being changed from a calendar year to an academic year beginning in September 1998. There will be a short year run from January to August 1998 as we make the transition.

This section also deals with the ability of ratepayers to designate their education property taxes to a board of which they are a supporter. This continues an existing right in the Education Act. There are five types of boards: English-language public, English-language separate, French-language public, French-language separate and Protestant separate school boards.

Individuals will be able to enter a designation in respect of any residential taxes they pay. Business taxes will be distributed to school boards on the basis of enrolment, but both individuals and corporations that pay residential tax rates will be able to make that designation, and that revenue will be distributed to school boards in that manner.

There is a defined list of types of corporate ratepayers which are not permitted to designate. These are effectively publicly traded companies, crown corporations and a few other types of corporate entities which cannot be said to have a linguistic or denominational character to them, so they are not permitted to designate their residential taxes.

The act also provides for some changes in the borrowing and investment powers of school boards. These provisions are intended to ensure that boards can borrow money cost-effectively, avoid unnecessary interest charges by permitting improvements to the way boards can manage their cash and their finances, and provide that boards can maximize investment returns on any assets they may be holding either in trust or for purposes of a reserve fund and minimize risk on funds not immediately required. Boards will be permitted to invest in prescribed securities and borrow through the use of prescribed instruments. They will have additional flexibility to use money in reserve funds to meet their immediate financing requirements and to minimize their interest costs.

Boards will be able to issue debt for permanent improvements, which are defined as a range of capital expenditures which might be expected of boards operating an efficient provision of educational services to students. There will be limits on debt and financial obligations to ensure that boards remain in responsible financial positions.

There is considerable security for lenders in the drafting of these provisions to ensure that boards continue to meet their financial obligations and to assure to lenders, both previous and future, that debenture commitments to them will be honoured by school boards and will be met according to the terms of their contracts.

There are also provisions that would allow the province to establish a school board financing authority if school

boards felt this would be helpful to them in borrowing efficiently and at the lowest possible rate of interest.

There is a range of provisions dealing with financial administration, such as annual audits required of school boards and the preparation of financial statements provided to the minister and to other parties the minister may require school boards to report to.

Division B of the bill relates to education taxes. It allows the Minister of Finance the ability to set tax rates for education purposes on residential properties and business properties. Residential taxes will be established using a uniform rate for both single-family and multi-residential homes.

Tax collection: Municipalities will collect these taxes and remit them to school boards as directed, either by the designations entered by individual ratepayers for residential properties or on the basis of enrolment for business properties.

There is a division C, which contains some existing powers that allow school boards to set tax rates. However, these provisions will be inoperative; they are made inoperative by clauses that follow in this section and are contained in division F of the bill.

Part D of the finance provisions contains provisions which would allow the minister to deal with boards that enter into financial difficulties. These provisions have been adapted from provisions that are currently in effect and contained in the Municipal Affairs Act, part III, and are applicable to municipalities and have been used in the past to deal with school boards that have gotten into financial difficulties. They have been brought into Bill 160 and are proposed to be included in the Education Act if this bill passes.

These provisions are essentially those that are in effect today. However, some additional protections have been entered in terms of requiring the minister to exercise these powers, should they be necessary, in a way that respects both linguistic and denominational characteristics of the board in question.

Division E reflects education development charges. Mr Nameth will speak to those.

I will just briefly bring to your attention that there is a division F in the finance section. It contains provisions which make division C, the board-set school taxes, inoperative. It also contains a requirement for the government to initiate a review following the 2002-03 school year to determine whether the education funding respects the standard committed to at the outset of the finance provisions, which is that any education funding provided must meet both constitutional and charter standards of fairness. I'll ask Mr Nameth to speak to the education development charges section of the bill.

1310

**Mr Drew Nameth:** Division E deals with education development charges. Under the proposed funding model that was announced by the former minister in May, provincial grants will cover 100% of building-related costs in the future. Boards would be responsible for acquiring sites for new schools.



There are a number of options available to boards needing new schools to acquire those sites, one of which would be education development charges. Only boards in growth areas where enrolment exceeds the capacity of the board's existing schools would be permitted to impose education development charges. They could have one bylaw covering an entire upper-tier municipality in their jurisdiction in which the schools were to be constructed, or, if they wished, could subdivide an upper-tier municipality and charge separate bylaws in separate areas within the upper-tier municipality.

Education development charges would apply to both residential development and commercial-industrial development, as is the case for municipal development charges. Bill 160 aligns the processes related to education development charges with processes proposed for municipal development charges under Bill 98.

The processes before passing a bylaw would include a background study and a requirement for at least one public meeting, where the need for the development charge and the calculation of the charge in the jurisdiction would be documented. The appeal process, complaint process, collection of EDCs and exemptions for EDCs would all be similar to those in place or that would be in place for municipal development charges. The intention here is to have one way of doing business from the developers' and builders' perspectives, the individuals who would be paying the development charges and municipal clerks who would be collecting the development charges, one way of doing business for both education and municipal development charges.

The Lieutenant Governor in Council will have regulatory authority over the determination of EDCs. The value of the charge would reflect ministry benchmarks for sites for new schools, new elementary and new secondary schools, additional requirements that may be imposed by municipalities, whether for bus loops, additional parking and perhaps a septic field for rural schools, as well as the cost of land in the community.

Bill 160 also provides a method for valuing land for new school sites in new subdivisions. The bill stipulates provisions similar to those that are currently in the Planning Act which determine cash-in-lieu amounts for sites dedicated as parkland. As a condition of draft plan approval, owners of properties designated as school sites would be required to dedicate those properties to the school board at a price that does not exceed the value of the land on the day before approval of the subdivision was granted.

School boards which currently have education development charges, and there are a number of them which have charges for both a share of the cost of acquiring a site as well as the cost of acquiring buildings, may use those revenues raised prior to December 31, 1997, or a transition period which would be specified in regulations, to finance the local share of projects approved by the minister.

Effectively, Bill 160 precludes boards that do not now have education development charges from imposing edu-

cation development charges under current legislation. The bill provides that any board that implements an education development charge from September 22 onwards, that bylaw would expire when Bill 160 is proclaimed and all revenues generated as a result of that bylaw would be refunded to those that paid them.

Bill 160 also includes provisions dealing with the sale of surplus schools related to our reform of the capital funding process. Regulations regarding the disposition of schools would be broadened. Currently there is a requirement for boards wishing to dispose of surplus property, and it would be boards that would determine when the property is surplus and whether or not to sell or lease that property.

Boards are required to offer that property first to other public sector agencies based on a priority list determined by the Minister of Education and Training. The intention here is to ensure that public assets continue to be used in the public sector. Regulations would be broadened to also include provisions governing the price or lease rate for the property and the use of the proceeds of the disposition of surplus property by school boards.

Boards would be directed to seek full market value for their surplus schools except when the purchaser is another school board whose enrolment exceeds the capacity of its existing schools, or a provincial school, or a publicly funded care and treatment facility that will be using the facility to offer programs leading to an elementary or secondary school diploma. The intention here is to have facilities that were built as schools to continue to be used as schools in the community if there is a need for them in that jurisdiction. In those cases the price of the surplus property, both for land and buildings, is not to exceed the provincial grant for new pupil places.

There are provisions in the bill that prevent speculation and property flips. The board that originally owned the property would have the right to reacquire it if the board that did acquire it under these provisions were to decide at some point in the future that the school was surplus to its needs. That concludes the education development charges section.

**Ms Margot Trevelyan:** The collective bargaining provisions of Bill 160 contain two components: One is long-term changes to the way teachers negotiate collective agreements with boards and the second is transitional provisions to address the new governance model of education which is being established in January 1998, the new financing and funding of the education system and also to assist boards and teachers in amalgamating collective agreements as a result of the amalgamation of school boards.

The long-term provisions would see teacher collective bargaining covered by the Education Act, which would provide that the negotiation process take place under provisions of the Labour Relations Act. It would define the bargaining units so that each board would have one bargaining unit for all elementary teachers and one for all secondary teachers. Principals and vice-principals would remain in the bargaining unit. The bargaining agents

would be defined as the current five affiliates of the Ontario Teachers' Federation and the right to strike would be maintained.

As a result of this, the School Boards and Teachers Collective Negotiations Act, better known as Bill 100, would be repealed as of January 1, 1998. The function of determining when the school year is in jeopardy would be maintained at least temporarily with the Education Improvement Commission and could be transferred elsewhere by the Lieutenant Governor in the future, but it would be maintained permanently.

The act would also delete teachers' permanent contracts and boards of reference. These would be deleted on a date to be proclaimed to give boards and teachers an opportunity to negotiate into their collective agreements provisions which currently exist in those individual contracts. Teachers employed by the provincial schools authority would also negotiate under provisions of the Labour Relations Act, but they would remain in the Provincial Schools Negotiations Act.

There will be changes to the Teaching Profession Act to ensure that union dues are collected by the local rather than the provincial affiliate. It would empower the government to amend regulations and bylaws of the Teaching Profession Act and to ensure consistency with the new bargaining regimen.

The transitional provisions are to support boards and teachers in the amalgamation of agreements as a result of the new changes. New boards would be bound by the terms and conditions of employment for teachers that were in place at the previous school board on December 31,

1997. All boards and teachers would be required to negotiate new agreements as of January 1, 1998. That includes boards that have amalgamated and boards that have not.

The long-term provisions I've just outlined would be in effect as of January 1, 1998. If both parties choose arbitration under the first-contract provisions of the Labour Relations Act, they could do so by using their own independent arbitrators, and those arbitrators would be bound by the same criteria as are in Bill 136; that is, ability to pay and so on. Occasional teachers would be brought into the teachers' bargaining unit at the end of the first contract. That highlights the collective bargaining provisions.

**Ms Naylor:** I will close this briefing by bringing two other items to the committee's attention. There are changes to the school attendance section to amend the habitual absence section by removing an obsolete reference to the Juvenile Delinquents Act; and provisions to establish an Ontario education number, which will give us a consistent number to use on students who attend elementary and secondary schools and community colleges, with the possibility of other approved uses for other educational institutions and agencies. That concludes our briefing. Thank you.

**The Chair:** Are there any questions of any member of the committee? If not, thank you very much for the briefing here this afternoon. I'm adjourning this hearing until Monday, October 20, at 9 am in room 151 in this building.

*The committee adjourned at 1321.*





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**Legislative Assembly  
of Ontario**

First Session, 36<sup>th</sup> Parliament

**Assemblée législative  
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**Lundi 20 octobre 1997**

**Standing committee on  
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Education Quality  
Improvement Act, 1997

**Comité permanent de  
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Loi de 1997 sur l'amélioration  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 20 October 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 20 octobre 1997

*The committee met at 0908 in committee room 151.*EDUCATION QUALITY  
IMPROVEMENT ACT, 1997LOI DE 1997 SUR L'AMÉLIORATION  
DE LA QUALITÉ DE L'ÉDUCATION

Consideration of Bill 160, An Act to reform the education system, protect classroom funding, and enhance accountability, and make other improvements consistent with the Government's education quality agenda, including improved student achievement and regulated class size / Projet de loi 160, Loi visant à réformer le système scolaire, à protéger le financement des classes, à accroître l'obligation de rendre compte et à apporter d'autres améliorations compatibles avec la politique du gouvernement en matière de qualité de l'éducation, y compris l'amélioration du rendement des élèves et la réglementation de l'effectif des classes.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen. This is a hearing of the administration of justice committee considering Bill 160. It is traditional in this place to have representatives of all three parties. However, in view of the very substantial schedule we have today and tomorrow, and being 10 minutes after the start time according to my watch, I feel I must exercise my discretion and proceed at this time, at least with the opening statements. Mrs McLeod, you had a statement to make first?

**Mrs Lyn McLeod (Fort William):** Mr Chairman, it won't be a statement. I have three procedural questions just before we begin the hearings themselves. I certainly don't intend to make a speech out of them and I'll leave the opening statements to Mr Smith.

My first question is just to clarify an understanding of the amendment that affects our procedures from this point on. It was certainly my understanding that those on the minister's list would have a half-hour to present. I had failed to realize and I think my error — and the clerk has clarified that but I just want to be sure that I understand it correctly now — is that anybody in any community who is not on the minister's list in any community, whether chosen through the process of each committee member's selections or chosen from caucus lists by the clerk, after this will only have a 10-minute slot to present. Is that correct?

**The Chair:** That is my understanding, Mrs McLeod.

**Mrs McLeod:** I realize it may be no longer possible to suggest this, but is there any way to consider having even some combination? I really believe 10 minutes is such a limited time for the groups and organizations that are affected in a major way by this to address even one portion of the bill, let alone the full bill. I ask that we have some consideration given to either extending the 10-minute slot outside the minister's list and recognizing a difference between groups and organizations and individual presenters or at least grouping those individuals when they represent groups.

**The Chair:** I'll discuss that with the clerk and see if that's possible.

**Mrs McLeod:** I appreciate that, Mr Chairman.

My second question is: I look at the Toronto list, and if my count is right — and we've just seen the list, as you know, Mr Chairman, within the last few minutes — of the minister's list that was presented to us on Wednesday, only seven of the presenters today were on that list. I assume that everybody who's in a 10-minute slot was not on the minister's list; otherwise they would have the half-hour. If my count's correct, seven of our presenters today are from the minister's list, some 32 are not on the list.

I'm obviously appreciative of the fact that of this thousand people who had asked to present — and I suspect it's well over a thousand as of Thursday at 5 o'clock, and the clerk might update us on how many people have called as of Thursday at 5 o'clock to present — at least some 32 of them have been able to get on, but I also note that we still have eight vacancies. This is not a critique of the clerk in any way, because I think the clerk has been working triple time to fill the committee's speaking list given the change in process. But I'm wondering whether the eight vacancies can still be filled if there are people present who had asked to present, whose names are on the list, if we can use those names to fill the vacancies. There is precedent for that, Mr Chairman.

**The Chair:** The clerk advises that there are calls out to more than enough people to cover those eight in 10-minute slots.

**Mrs McLeod:** As long as people who are on this list get to fill any vacancy, I would be quite satisfied. Can I assume that if by any chance we are facing a 10-minute slot where we do not have somebody speaking and there is somebody in the audience whose name is on the list, that person could be called, even on short notice, to speak?

**The Chair:** That will be up to the committee, but I can see no reason they wouldn't be.

**Mrs McLeod:** My last question is that I've done a quick count on Tuesday's list — those are the only two lists we have — and, if I'm correct, another 16 people from the minister's list are slotted for Tuesday. That means that a total of 23 of the 50 people from the minister's list are slotted. That's less, obviously, than half the minister's list. My question is, does that mean the minister's list will continue to take precedence in every community we visit so that local people will not get their opportunity to present?

**The Chair:** Could the clerk, since he has been dealing with it, address that?

**Clerk of the Committee (Mr Doug Arnott):** More than 23 of the list of 50 have actually been scheduled. A number of organizations were based outside of Toronto and requested a presentation in another location, so a number of others from the list of 50 have been scheduled in other locations.

**Mrs McLeod:** In each case would they have a base in that other community?

**Clerk of the Committee:** Not necessarily.

**Mrs McLeod:** Do you have a total count as of Thursday at 5 o'clock?

**Clerk of the Committee:** Yes. As of Thursday at 5 pm, 1,145 requests were received by our office. A number of late requests were received after 5 pm and over the weekend.

**Mr Bud Wildman (Algoma):** I have a couple of procedural questions and then I would like to move a couple of motions on procedural matters for the committee's consideration.

From what the clerk has just said, I understand that essentially we are going to be able to fill the spots that are available. My colleague from Fort William is quite correct that it would be bizarre if we had empty spots with so many people who have an interest in making presentations and who have been unable so far to get on the list.

I have a motion that I would like to put in that regard, but first I have another matter which I would like to put before the committee. Prior to putting the motion, though, I would like to ask a question. What is the schedule re opening statements? Is the minister going to be making an opening statement?

**The Chair:** I understand he is not. Mr Smith will be making the opening statement.

**Mr Wildman:** I have the greatest respect for Mr Smith, but I really would like to hear from the new minister since we had a rather interesting situation last week where the committee had made an agreement prior to the cabinet shuffle that was completely changed after the cabinet shuffle. The new minister obviously had a different position and a different point of view as to how the committee should proceed.

I understand that the minister is meeting with representatives of the teachers' federations today, and obviously things may be in a state of flux in terms of the potential disruption of classes for students in Ontario.

With that in mind, I hope the minister would make a presentation to the committee, and if he is not available prior to the meeting, which I understand is this afternoon, I hope the minister would appear before the committee subsequent to his meeting with the teachers' representatives so we could have some idea of what the possible outcomes of that meeting might be, particularly as it relates to the possibility of a work stoppage later on this week which would affect all of the students in Ontario.

With that in mind, Chair, since the minister is meeting today with representatives of the teachers regarding Bill 160 and an impending teachers' walkout, I move that the Minister of Education and Training appear before this committee immediately following the meeting today, that is, the meeting between the minister and representatives of the teachers' federations, to report to the committee and to the public on the status of the talks.

I have it in writing.

**The Chair:** Mr Wildman, could you please assist me. Is this a request or is this in the nature of a subpoena by this committee?

**Mr Wildman:** It's not a subpoena. I'm sure the minister will come willingly. I'm certainly not suggesting that we would subpoena. I'm not sure that the subcommittee, or for that matter the House leaders, in discussions about the time allocation motion which cut off debate on Bill 160, gave this committee subpoena powers. The wording could be changed if you think it would be more appropriate that we invite the minister to appear before the committee immediately following his meeting with the teachers' representatives to report to the committee and to the public on the possible outcomes of his meeting with the teachers.

**The Chair:** As an invitation, I think the motion is in order. Is there discussion in regard to the motion?

**Mr Bruce Smith (Middlesex):** I certainly appreciate the comments the member for Algoma has raised. It has been indicated to him that I'll be making a brief presentation on behalf of the minister today. I think I can assure you that the comments I'll be making reflect the same principles and objectives that will be expressed to teacher representatives this afternoon.

We will not be supporting the motion as is. Certainly the minister wants to proceed with those discussions with teachers' organizations in a productive manner, such that we can find some conclusions or alternatives or suggestions on how to improve Bill 160. Not that this would compromise that, but he certainly sees this process as one that would parallel any efforts he is making and, as well, a process that's complementary to the work this committee will be doing. Very briefly, the government caucus won't be supporting the motion you have presented.

0920

**Mrs McLeod:** As I understood the purpose of the motion, it was not so much to find out what the minister might be saying before he goes into a meeting with the teachers, and I accept the fact that the parliamentary assistant will be presenting those remarks on his behalf this morning, but that this committee be apprised of any



result of those negotiations and discussions which might have a direct bearing both on the bill and on our subsequent deliberations. I think that is only fair. Perhaps there can be a condition to the motion that, assuming that there is some progress made and something to report, this committee would receive a report from the minister.

**Mr Wildman:** I agree with what my friend from Fort William just said.

In response to the parliamentary assistant's comments, I really haven't heard from him why he says the government members on this committee would not support this invitation to the minister. I appreciate the fact that he will be making a statement on behalf of the minister, putting forward the principles the minister is following going into the meeting, but that is before the fact. What we are attempting by this motion is to give the minister the opportunity to talk to the committee about the progress that is or is not made this afternoon.

There are an awful lot of parents out there who are very, very worried about whether they are going to have to find alternative child care for their children later on this week or next. There are an awful lot of teachers out there who are very uncertain about whether progress can be made without resorting to political action, to withdrawing services. There is a tremendous amount of uncertainty in the education system.

If significant progress is made today, a lot of that uncertainty could be cleared up, there could be a lot of fears allayed. I hope the minister would like to come to the committee and say, "Things are going well and we are looking forward to fruitful discussions." I'm not suggesting that he should somehow negotiate with the teachers before this committee. That's not what I'm suggesting. What I'm suggesting is that he come before the committee and indicate to us whether progress has been made and whether he is optimistic that changes can be made to Bill 160 which will serve the interests of the students of Ontario, allay the concerns of the teachers of this province and give us some indication of where the government is intending to go with this legislation. That will certainly affect the rest of these hearings.

If the government is prepared to make a major change as a result of the discussions with the teachers, that will certainly affect what presenters will want to talk about before this committee. It would be a little bit bizarre to have people appearing before the committee making presentations on the current draft of Bill 160 if the minister is discussing major changes at the very same time with the teachers' federation, so I hope the government members would reconsider and invite the minister to come before the committee. The minister can always refuse. He can say no if he doesn't want to. Why would the members of the committee not invite him? To shut down the possibility of inviting him seems a little bit strange to me.

**Mr Joseph Cordiano (Lawrence):** I think the motion is very appropriate at this time, because given the nature of the discussions, what can result from those discussions may alter the proceedings of this committee. Therefore, it would be inappropriate for us to continue, not knowing the

status of those discussions taking place between the teachers and the minister. The outcome of that could affect these proceedings before the committee. It's rather pointless to carry on if we aren't able to determine the outcome of those discussions before we enter into clause-by-clause of this bill. It's rather pointless that the committee would carry on with a bill that could conceivably change fundamentally and as a result our work is redundant.

I think it is in every member's interest, as members of the Legislature proceeding with the processing of this bill on committee, to make that point that this committee will not be deemed to be redundant by actions taken by the minister outside of these committee hearings which could have a serious impact on the legislation before us that we are to address. I think the motion is very much in order, and I see it as pointless for this committee to continue to have these hearings if there is a drastic fundamental altering of the bill and we don't know about it.

**The Chair:** Is there any further discussion before I put the motion?

**Mr Wildman:** Recorded vote.

#### Ayes

Cordiano, McLeod, Wildman.

#### Nays

Boushy, Newman, Rollins, Smith.

**The Chair:** The motion fails.  
*Interruption.*

**The Chair:** Members of the audience, I have really enough difficulty attempting to control the members of the committee. I do not need additional persons to whom to extend my jurisdiction. I therefore ask you to control yourselves. If you cannot, then I will take other steps, and I would prefer not to.

**Mr Wildman:** In that regard, Chair, I would like to move another motion in relation to the issues that were raised by Mrs McLeod and myself earlier.

Whereas there has been overwhelming public interest in Bill 160 and that requests to appear before the standing committee on justice far exceed the number of spaces available; and

Whereas the government has appropriated most of the time allocated for witnesses by passing a motion with their majority on October 15, which incidentally cut the number of days available for hearings;

I move that this committee recommends to the government House leader that when the House returns on November 17, 1997, that the order with respect to Bill 160 be amended and that the bill be returned to the standing committee on justice so that further public hearings can be arranged;

Further, that this committee recommends that the three House leaders meet as soon as possible to discuss this issue.

**The Chair:** Does everyone understand the motion before us made by Mr Wildman? Is there any discussion with regard to the motion?

**Ms Frances Lankin (Beaches-Woodbine):** I want to begin by indicating how shocked I was last week, although I shouldn't be shocked any more, when the government pushed through a motion affecting the way in which groups and individuals would be allowed to present before this committee. This is the first time I'm aware of in the history of this province that a government has used its majority to appropriate most of the time before a committee and to essentially, in the colloquialism, stack the process and the views that will be presented to the committee.

I was particularly shocked because I had had a discussion with the new Minister of Education just the night before to try and ascertain why this meeting was being called on an emergency basis when there were to be no committee meetings last week, why the government Chair of this committee was calling a meeting, whose request he was acceding to. I was told that there was a minor issue of the time limit for presentations, that the current subcommittee and committee process had determined that there would be 20-minute presentations by groups and individuals and that there had been some concern raised about that, and they thought it was perhaps more appropriate that groups be given 30 minutes and individuals be given 10 minutes. I expressed my surprise that the government would force a committee meeting to be called to deal with such a minor issue and that we would be losing a day of hearings as a result of that.

0930

I suggested that a much simpler way of dealing with it would be for the subcommittee members to have a telephone conference. This government wants to point out all the time that we don't need to travel to communities because we can do teleconferencing and television conferencing. All they had to do in this case was pick up the telephone — it's older technology — call the subcommittee members, see if there was agreement to amend the time frames, and if there was, that could have been simply ratified at the beginning of the hearings this morning.

I was at a loss to understand, from Mr Johnson's reasons that he put forward to me, why this meeting was being called last week, and of course, when we arrived here, I found out that I had not been told the whole story. It's unfortunate when you no longer have an ability to even share information on a full basis so that all parties know what the government's intention is. The motion that was put forward is scandalous. It is an abuse of democratic process.

**Mr Wildman:** That's the motion last week.

**Ms Lankin:** That's the motion last week. Yes, Mr Wildman, you're right. Yours is an attempt to correct the abuse of democratic process. It's extraordinary that the government would use its majority to invite groups to come forward that had not even expressed an interest in presenting on this bill, in fact groups that you had not even contacted to find out if they would be interested. I understand there are a number of those groups who have re-

jected the offer — not enough to restore any integrity to the process.

Here we are in a situation where there are so many individuals, in particular parents, who want to have an opportunity to participate in these hearings and to present before this committee. Because you have taken up virtually all the time at least of the Toronto hearings with your hand-picked group, your pro-government toadies who will be coming in here, and because you have cut off a day of hearings, there are many people who will not have an opportunity to be heard.

I was at a meeting of parents on Friday night and I was struck by a number of the contributions to the meeting that parents made, but there was one woman who stood up and said: "Why is it that we don't know anything more about the content of this bill? Why is it all happening so fast? Why are we, just before the bill is going to go to committee and then within weeks it's going to be finished and we could have a teachers' strike, only now just trying to find out what the content was?"

The answer to her is that we have had not just a revolution in the government's terms of a Common Sense Revolution, we've had a revolution in the democratic process in this province in which bills are rammed through in time frames, with time allocation motions, rapid debate in the House, constrained debate in committee, which leaves the public without an opportunity to have full participation because in many cases they don't have full information to form an opinion.

Parents are meeting out there as we speak, and as more and more parents meet, more and more parents will want to come forward and participate in these important discussions. This is not just about the government's goals with respect to their so-called reform of education; this is about what parents and families want out of the education system. The government should not at this point in time truncate that debate and that discussion. I think it is essential, given the level of interest that has been demonstrated already by parents in this province and others in the community who are concerned about our education system, it is absolutely necessary that the government consider the possibility of extending the time for hearings.

We have an additional week, for example: the constituency week before the House is called back. There could be more hearings at that time. The first week the House is called back more hearings could be scheduled. It doesn't have to affect the government's overall timetable, although I would argue that it should. But it would be an indication to the public and to the teachers that the government is willing to listen to the people of this province with respect to this very important issue and the future of the education system for our kids.

I support Mr Wildman's motion and I hope that the government members would understand how appalled many people are as they have learned in the last few days about the motion you passed last week, about the way you've hijacked a committee process. I hope you would want to attempt to restore some integrity to it.



**Mrs McLeod:** I already had ample opportunity and will have more, I'm sure, to express my absolute dismay at the abandonment of any semblance of democracy in this committee hearing process. I will certainly support any motion which calls for more public hearings, but I want to express my concern that further hearings prior to the House coming back or further hearings after will not address the most immediate problem we have, which I think Mr Wildman's first motion addressed and which my proposals to at least have some additional time for presenters while these hearings are going on, might help to address.

I think we recognize that we're at a very critical point of time, that unless there is something meaningful which comes from the discussions between the government and the teachers this afternoon, we are facing a confrontation and a crisis of a magnitude never before seen in this province. That could come as early as this week or at perhaps the latest at the end of next week. I think the focus has to be on whether or not there's any way to turn these committee hearings right now into something that might have some influence on the government members, who in turn could influence the minister who seems determined to be absent from the hearings themselves.

I'm pessimistic because the way these committee hearings have been turned around from anything which has any precedent before suggests to me that the new minister and the government on whose behalf he's acting intend to do whatever they have already decided to do and that the hearings we're going through are largely farcical. Nevertheless, I believe we must provide the public with some opportunity to be heard, whether the minister is going to pay attention to it or not.

**Mr Cordiano:** It stands to reason, given the extent and the numbers of parents interested in commenting and having their say on this bill, that this bill has such an extraordinary impact on not only students but parents, people right across the province. The response has been so overwhelming and the government's response in terms of committee hearings is so feeble that there is obviously something wrong.

It's incumbent upon the government members of this committee to ask themselves, is it legitimate that over a thousand people have requested time before this committee and have been rejected, by and large? Except for those who have made it on the list, quite a number have been rejected. It stands to reason that we are obviously concerned about that. This is not an attempt to suggest that the government has no right to proceed with its agenda. It was elected as a majority government; there is no question about that. No one questions that on the opposition side.

On the other hand, it's the time-honoured tradition in this province and a hallmark of our democracy that people be given their say before something as fundamental as this moves forward. That's what we're asking for, and the claim of people that this government is not willing to listen and that you have turned completely away from that process is quite legitimate. These hearings become a sham, in our opinion, because as a result of your disinterest in

listening to all those people out there, these committee hearings cannot have any kind of broad-based, consultative measures take place and that's what committees are supposed to be doing. I think the motion to extend hearings is quite appropriate. It's the very least you could do at this point: to extend those hearings so we may accommodate more parents who are interested in speaking before this committee.

**Mr Smith:** Not to repeat perhaps much of the debate that occurred last Wednesday — I fully understand the situation Ms Lankin spoke of. I've recognized on both occasions the different approach being utilized here today. I think it's one that can be positive over the course of the next seven days. It's not about stacking the lists, and I would encourage all members of the committee to scrutinize that list. While I don't want to prejudge the contents of any deputation's submission, I don't suspect you'll find the list is dominated by pro-government organizations or groups. We've added some hours. We've added lot spots for deputations to make presentations. I feel, as does the minister, as do my caucus colleagues, that the list is balanced and fair and we're attempting to capture a range of stakeholder input into this process.

0940

I don't want to belabour the historical issues here, but if we take the time to look at the amount of public hearings time that has been secured or pursued by this government in the 36th Parliament, we will see comparatively that we're spending more time securing public input, more time in committee than certainly the previous government. I would compare that to the Liberal government.

**Mr Cordiano:** — minority government.

**Mr Smith:** I would encourage you to go to the legislative library, Mr Cordiano, and research it. Spend a few minutes researching for a change. Even as we sit here this morning, we still have opening statements from both, I assume, Mr Wildman and Mrs McLeod, as well as the government side on behalf of the minister. As a result of the time spent in debating this particular motion, we have effectively lost spots for six people to make presentations.

I would encourage the committee to move ahead. We've had this debate in part. I think Mr Wildman clearly expressed his viewpoint last Wednesday. I received it, I understood and I disagree with it. None the less, we feel strongly as a government caucus that it's time to proceed with the hearings and for that reason we'll not be supporting the motion that has been presented by Mr Wildman this morning.

**Mr Wildman:** I must say I'm disappointed at Mr Smith's intervention. I make no apologies for putting forward a procedural motion designed to provide more time for people to make presentations to this committee and I make no apologies for the fact that it has taken up some time this morning.

The government has done something in terms of the procedures before this committee that has never, ever been done, according to the Clerk's office, never in the history of this assembly. The government has essentially, I think, skewed the process.



As my colleague said, you could argue that the attempt has been to stack, in other words, to try to make it appear that there are far more presenters among the over a thousand who have indicated they want to make presentations who support the government than there are in fact.

I believe that we need more time. We have over over a thousand groups and individuals who have indicated they want to make presentations before this committee. We don't have nearly the time, and we have far less time now because of the government's motion last week which puts forward a list, and then on top of that says that each member should be able to choose two presenters subsequently, which basically means the government will always have more than those in opposition.

I think we need more time. Certainly we need more time in relation to the fact that the government's moves last week denied one day of hearings. We extended the hearings, on my suggestion, into the evening to try to make up for some of that time, but it doesn't make up for all of it. I believe that we didn't have enough time, thanks to the government's time allocation motion, in the first place. We couldn't meet the demand. The demand has been overwhelming.

To say now that we will not even ask the House leaders to discuss the possibility of extending the hearings is just completely unacceptable. I don't understand why the government would not want to invite their own minister to make a presentation before this committee, why the government members would not want to hear from the individual who is given the responsibility of carrying this bill in the public and who is given the responsibility of negotiating with the teachers, who are very upset about the provisions within Bill 160 and who have indicated that if it is not changed substantially, they may withdraw their services. We'll have a work stoppage and thousands and thousands of students and their families will at the very least be inconvenienced. It may mean significant disruption for the education of students in this province.

The long-term effects of this, no matter what happens in terms of morale for the teachers and the effects on the organization and operation of our schools and thus on the education of our students, cannot be weighed. I think we have an obligation to make more time available to those who wish to make presentations before this committee on Bill 160 and I'm very disappointed in the government's position.

It seems almost as if we are running a railroad here and Mr Smith is the conductor and he just keeps saying: "All aboard, all aboard. Let's get going." All right. Let's have a vote and let's see whether this government is interested in having people make presentations, whether the government is interested in listening to the public of this province.

**Mr Dan Newman (Scarborough Centre):** Just to comment: You talked about the motion of last week. It was actually an amendment to the motion by myself to extend the number of hours of hearings. We hear from the opposition today about extending the amount of time of hearings and we have actually increased the hours of

hearings here in Toronto. For some of the members of the opposition here today who weren't here the other day, they will find that's what is happening. The hearings are travelling across the province.

**Ms Lankin:** You cut a day off the hearings, Dan. You took five hours back.

**Mr Newman:** We are travelling across the province seeking input. I think what's important to keep in mind with any bill is that there are always more people who want to speak to bills than there is time available for. I am sure both opposition parties, when they were the government —

**Mr Wildman:** Particularly if they're controversial bills that people don't want.

**Mr Newman:** The great thing is that written submissions can be accepted by the committee. I know that members of the government side read the written submissions that are brought forward in forming their decisions. I would encourage the opposition members to read the written submissions that people bring forward.

**Ms Lankin:** Don't be insulting.

**Mr Newman:** Ms Lankin also spoke about committee members having the opportunity to submit names. I think she might be surprised to see some of the names that government members have submitted.

**Ms Lankin:** I'm aware of them. I'm not surprised at all.

**Mr Newman:** I think you ought to be. Look at some of the names and you might find that out before you make your decision.

What's really important to keep in mind is that with Bill 160 and every other bill that has been introduced during the 36th Parliament, any committee hearings that are held exceed the number of committee hearings in time that the NDP had when they brought in the social contract. They literally rammed the bill through without any public consultation. There were no public hearings, and I think that's important to keep in mind.

**The Chair:** Thank you, Mr Newman. I would remind the committee, and I'm not trying to put any limits on debate — you're entitled to debate as long as you wish pursuant to the standing orders. However, we now have 10 minutes remaining, theoretically, before 10 o'clock, which is our first presentation of individual presentations of each party. You are allotted 20, which means we may not be able to break for 12 noon for our lunch-hour. We only have allotted one hour. There's going to be problem and I'll ask for your assistance down the road as to what we should do.

Mrs McLeod, did you —

**Mr Wildman:** I'd be happy to sit through lunch if it means we can hear more presentations.

**The Chair:** I don't know whether I'm capable of that, Mr Wildman.

**Mrs McLeod:** I won't extend the debate. I just think it has to be put on record that any extension of hours was solely to make up for the hours that were cut by the fact that the government saw fit to bring in an amendment and



use up a full committee day to bring forward that amendment.

I don't think there is any point in prolonging the procedural debate. We have the clock ticking for 126,000 teachers and 2.1 million students. I think this government has it absolutely clear that in spite of that anxiety that's out there, in spite of the time pressures, they are not prepared to use these next few days to really hear the concerns, so we might as well get on with the little bit they're prepared to give us.

**The Chair:** Thank you, Mrs McLeod. If there's no further discussion, I will put the question. The motion was made by Mr Wildman and requests that the House consider extending the sittings of this committee with regard to Bill 160.

**Mr Wildman:** Recorded vote.

#### Ayes

Cordiano, McLeod, Wildman.

#### Nays

Boushy, Newman, Rollins, Smith.

**The Chair:** The motion is defeated.

**Mrs McLeod:** If it would expedite getting on with the presenters today, I have a motion following my original request that the committee give some consideration to having groups and organizations other than those on the minister's list given 20 minutes to present, and 10 minutes for individuals. I'll table the motion with you, if I may, but if you would like to hold debate and the vote until hopefully there can be some consideration of it.

**The Chair:** Until a more appropriate time, yes. Thank you. If there are no other further preliminary matters, we'll start.

0950

#### STATEMENT BY THE MINISTRY AND RESPONSES

**Mr Smith:** Welcome, everyone, to the committee hearings on the Education Quality Improvement Act. Over the next several days I, along with my caucus colleagues and the Minister of Education and Training, look forward to hearing presentations from a wide variety of education stakeholders, including students, parents and taxpayers. We also look forward to seeing the many written presentations of people and groups who will send their comments to this committee and certainly give them the due consideration owed to those presentations.

Education, as I'm sure everyone in this room would agree, is a very important issue, not only for our students today but also for the future prosperity of our province. Education is an issue that I and my colleagues from all parties hear about every day from our constituents. Time and again, parents and students have told this government

and its predecessors that they are concerned about the quality of education and how their tax dollars are spent. They are concerned that national and international tests have consistently reported Ontario students' achievement below the Canadian average. At the same time, Ontarians have seen their property taxes going up and up, an average property tax increase of 120% over a time of 10 years.

Clearly, our system has not been meeting the needs of our students and of our teachers in terms of meeting our province's needs and outcomes. This government is prepared to change the system, and there have been 24 separate studies on education in my lifetime alone. The problems are well documented and now it is time for action.

This government is prepared to make the tough decisions to ensure that our students come first. We are committed to having the highest student achievement in Canada at the most efficient and effective cost. We have been meeting that commitment by introducing clear, challenging, consistent province-wide curriculum, regular standardized tests and standardized report cards so parents and students know exactly how they are doing. We are introducing a new four-year streamed high school program with clear standards and rigorous curriculum and we are ensuring more of our dollars are spent in the name of education, going directly into education and into the classroom and not the boardroom.

Previous governments have shared the Ontario government's concern. Former Premier Bob Rae wrote in a letter to his Minister of Education on October 15, 1991, that he was concerned about the appearance of a system that is overbureaucratized and still not as accountable as we want it to be. He continued to write, "The financing issue must obviously be addressed but in the context of making the system more efficient as well as fair."

Premier Bob Rae later repeated his concerns in an interview with the press. He said: "We spend per capita more than most other places in the world. I think it's a question of focus and a question of how we get the system to do its job."

We all know that our children are as capable as students anywhere else in the world, we all know that our teachers are some of the most highly trained and capable teachers in the world and we all know that over \$14 billion in spending on education in Ontario is not a question of money. The Fewer School Boards Act reduces the number of school boards by half and the number of politicians by two thirds. These quality initiatives are the first steps that will provide students and teachers with the skill sets they need to move ahead and will allow parents to better understand how their child is progressing through the system.

The proposed Education Quality Improvement Act is about taking the next step. It would help ensure a smooth transition for new school boards by improving the governance of schools, increasing the involvement of parents and simplifying the financing of the education system. The bill would allow the government to set standards of quality, such as class size, instructional time between teachers and

students, the amount of time students spend learning, and give students greater access to professionals.

David Cooke, the former NDP Minister of Education, and Ann Vanstone, former chair of Metro Toronto's public school board, in their roles as co-chairs of the Education Improvement Commission, released a number of recommendations which they said would improve the quality of our education system. In their report, Cooke and Vanstone indicated that elementary teachers spend the same average number of hours per day in the classroom as teachers in other provinces, but the EIC also indicated that high school teachers spend up to 20% less time in the classroom than the national average. The EIC recommended that high school teachers should spend more time with their students. The legislation would allow the government to set these standards.

The Education Quality Improvement Act would allow the government to set regulations that give our students more time to learn. The EIC recommended that students would benefit from more instructional time. The bill would allow us to improve student access to professionals with the special expertise they need. This is a recommendation from both the Education Improvement Commission and the Royal Commission on Learning.

In the past, class sizes have been negotiated between school boards and unions during wage and benefit negotiations. Parents have been concerned that class sizes have become a bargaining chip during negotiations. Under this legislation, the Ontario government would be able to make regulations that would effectively limit class size.

The bill would help us make the school system more accountable to parents. It would mandate school boards to establish advisory school councils in every school. Advisory school councils would give parents and others in the community a voice in how schools operate both inside and outside the classroom.

The bill would also stop the spiralling property tax increases. The province would be responsible for setting all educational tax rates and those rates would be frozen. The province would introduce a province-wide education tax rate on residential and multiresidential properties beginning in 1998. A uniform rate structure for residential properties is fair and is consistent with the government's plan to ensure that students across the province have access to high-quality education.

Prior to the introduction of the Education Quality Improvement Act, the government met with teachers' unions. They said that there could be a smooth transfer to a new school system if they maintained their right to strike. We accepted their input. The unions said that principals and vice-principals could continue to be effective educational managers while remaining a part of the union. Again we accepted their input. The unions said that teachers, professionals, would be best represented through their current teachers' federation structure. Once again we accepted their input. Free collective bargaining will be maintained.

During the transition to new school boards and after, unions and school boards would bargain freely under the

framework set out in the Labour Relations Act. Negotiations for a first collective agreement would begin on January 1, 1998. Existing contracts would continue during the new negotiations.

We are committed to improving the quality of education, not just in the name of cost-effectiveness. The proposals in this legislation would establish the administrative and financial framework that supports our efforts.

Most important, this legislation has been shaped by discussion with people and groups interested and involved in the education of our children. Ontarians agree. They want to see reform in the education system. They want their children and their neighbours' children to have the highest achievement records in Canada and they want to have an education system that is accountable to them, a system that respects the hard-earned dollars that Ontarians put into the system. This government is committed to these goals. We have listened and in the days ahead we will continue to listen. We will reflect on what we have heard and we will respond to what we will hear because, although we have an unwavering commitment to our goal of the best student achievement and the best value in our education system, we are open to other proposals on how to get there. Thank you very much.

**Mrs McLeod:** I have to begin my remarks by indicating my objections to the way the hearings are being run. We've had some chance to do that already this morning. I don't think "objection" is a strong enough word to describe my reactions, as a parliamentarian and as somebody who actually believes in the democratic process, to the way the minister has completely distorted the purpose and the normal procedures of committee hearings.

To the greatest extent possible to him, this minister has attempted to turn these hearings into minister-controlled, government public relations exercises. He has created an exclusive list, and only if you are on the list will you get 30 minutes to present, otherwise you get 10 minutes. We have an omnibus bill on education in front of us with the most sweeping changes ever proposed. They go even beyond the government's Bill 104, and people cannot address the concerns with this bill in 10 minutes. The minister has shut out any opportunity for over a thousand concerned individuals to present to this committee. He talks on one hand about his open-door policy and then he slams the door shut on more than a thousand concerned people who had asked to make their views known. This minister has unilaterally exercised the majority control of government to attempt to silence the voices of dissent and of criticism, and that is totally intolerable in a democratic system.

**1000**

This minister has unfortunately — tragically, I think, given the fact that the clock is ticking for 126,000 teachers and 2.1 million students — made it only too clear that these hearings will not serve a purpose of influencing the government to bring about changes. The government will do what it wants to do when it wants to do it and it seems the public can be damned.



We saw exactly the same thing in the megacity debate. We shouldn't be surprised by this, when the government rammed its legislation through in spite of the expressed opposition of some 76% of the population affected. We saw it most recently on Bill 136 when the government announced that it would bring in amendments but wouldn't present them until after the committee hearings so that the hearings became meaningless.

When you combine this distortion of the committee hearing process with the rule changes for the Legislative Assembly that will allow the government to ram through the legislation with little or no debate, you see how opposed this government is to any semblance of democratic process. The reality is, and it grieves me as a parliamentarian to say it, that under Mike Harris we no longer have democracy in Ontario.

*Interruption.*

**Mrs McLeod:** Mr Chairman —

**The Chair:** Excuse me, Mrs McLeod. It seems we have a number of individuals in the audience who lack self-control. We have a special room, committee room 2, and I will not tolerate demonstrations in this committee room. I will clear it or I will adjourn it. It's up to members of this committee. I have an obligation to the presenters who will be presenting before this committee to do so without intimidation. I will not tolerate intimidation of my presenters, whether they be for or against a particular object.

**Interjection:** Mrs McLeod, do you feel intimidated?

**Mrs McLeod:** I was not feeling intimidated at all.

**The Chair:** I'll clear it, unfortunately, if that's what you wish. It's up to the members of this committee to back me up that we do not permit demonstrations. You know the rules, and I won't permit it. It's as simple as that. Sorry, Mrs McLeod.

**Mrs McLeod:** Chairman, I will return to the fact that I believe what we have in the province of Ontario under Mike Harris is an autocracy. It is not even rule by majority; it is rule by cabinet. As we all know, it is not really even rule by the elected members of cabinet because we are effectively being governed by the backroom boys in Mike Harris's office, the ideologues who sit, as I believe the former parliamentary assistant to the former Minister of Education had said, with a copy of Machiavelli in one hand and the Common Sense Revolution in the other and not much in between.

Let me say to the Conservative backbenchers who sit on this committee and who serve to give Mike Harris and his henchmen their pretence of an elected mandate: Look at this bill that you have in front of you and understand how you have been disfranchised as parliamentarians by this bill. Your voice is no longer going to be heard in education or, for that matter, on taxation for educational purposes. Your vote won't matter because under Bill 160 there will virtually be no further votes on educational matters. Every decision that is to be made in the future if this bill is passed will be made without coming back to the Legislature. There is absolute power being placed in the hands of cabinet to act through regulation.

Look at the power to decide whether teachers should have time with students outside the classroom, look at the power to determine class size, look at the power to decide who should even be a teacher, and these decisions are by cabinet alone. Look at the power to levy property taxes for education and remember that they are still going to be 53% of business taxes and 27% of residential taxes and realize that those powers to tax need no bill. They will be a cabinet decision, and I suspect that is not even constitutional.

Look at the clause in this bill that gives cabinet power, if it decides it is necessary for financial reasons, as broadly as that may be interpreted, to take over a school board. Finally, look at the clause that gives cabinet power by regulation to override not only this act but any other act, and ask yourself whether there is any semblance of democracy left in educational governance when this bill passes.

Do you really trust your cabinet colleagues so much? Are you so convinced that achieving the agenda is worth it at any price that you are prepared to give up your elected accountability as legislators?

This bill is about giving total control to cabinet. I don't know if you remember Justice Archie Campbell, who described one clause in Bill 104 as the Henry VIII clause. He said it was a clause that gives the power to amend by regulation an act itself. It is known to legal historians as the King Henry VIII clause because that monarch gave himself power to legislate by proclamation, a power associated since the 16th-century executive autocracy. When Justice Archie Campbell sees this bill, he will realize that Parliament is being essentially disbanded in Ontario because our Legislature will be rendered as ineffective as if we didn't exist at all.

The government has made no secret of its need and its intent to cut educational spending. They can do that, and they have done that, to the tune of almost \$1 billion without this bill. They have cut junior kindergarten funding directly, they have cut adult education funding directly, but the rest of the cuts have been made to the operating grants of school boards. The government obviously doesn't like to hear the stories about what those cuts have meant. They have meant larger class sizes, they have meant the loss of special education programs, they have meant boards have been forced to close junior kindergarten programs.

As the parliamentary assistant today has said on behalf of the minister — and it's a line we've heard often — quality of education isn't a matter of how much we spend, because if they were to acknowledge that the cuts have actually hurt education they might have to take some responsibility for those cuts. They want to pretend that the cuts haven't hurt students, they haven't hurt the classrooms. What they say is: "We will convince the public that somehow you can't trust the boards and the teachers to deal with the government cuts because they've cut in the wrong places. They've negotiated higher class sizes in return for higher salaries." Direct words of the Premier of

the province of Ontario, the lines that had been fed him by the ministry I suppose.

It is simply wrong. Let me just state that once again for the record. Look at any of the salary contracts that have attempted to deal with the cuts that this government has made and you will see, almost without exception, that any salary increases were solely there to restore equity to junior teachers that was lost under the social contract. If you know anything about teachers' salary grids, you will know that in those settlements the majority of teachers who are senior teachers benefited not at all. It was simply a matter of equity for junior teachers. It is a blatant attempt to manipulate public opinion to say that you cannot trust teachers and trustees. It is a blatant attempt to say: "Give us all the power that we want. Trust us."

This government will still not be accountable when it has all these powers. They won't be accountable for what happens to students when they are taught by unqualified teachers; they won't be accountable for what happens to students who can't get tutorial help after school because the teacher has too much marking to do; they won't be accountable and maybe they won't care, when the high school basketball league folds because teachers don't have time to coach any more.

Let's not be under any illusions that the Harris government agenda for education has changed. Mr Eves is not backing off the need for cuts, based on his statements last week. Read carefully what he had to say. He said: "I don't think \$1 billion will be removed from education. There are savings that can be had in administrative and non-classroom aspects of education." Where have we heard that before? When will the government acknowledge that all of its vaunted administrative savings through amalgamation amount to \$150 million, and when will they actually commit to at least reinvest that in education?

1010

When I hear the Minister of Finance talk about the savings to be found in non-classroom aspects of education, I'm back to John Snobelen's \$6-billion myth of the money that is not spent in the classroom. You look at the \$6 billion and realize that it is spent on such basics as heat and light and what I consider to be essentials, like special education and libraries. But these are indeed the areas that the government is giving itself the power to cut, and those cuts can still mean 10,000 fewer teachers. The minister says, "I don't think the net result of the cuts will be \$1 billion." They are clearly still talking about very big cuts.

Even when the Minister of Finance last week talked about some reinvestment in education, it was reinvestment in technology that he was talking about, not reinvestment in teachers to teach kids. It makes me think that the confidential document that I have reflecting Mr Snobelen's musings about paperless and virtually teacherless classrooms really does reflect government policy and not just the previous minister's verbalizations. Even the minister for women's issues, for some inexplicable reason, was commenting on how the government will reinvest money in education and said it would be in co-op programs in preparation for work.

All of this may be worthwhile reinvestment, but it is not a reinvestment in teachers. There is no doubt that this government intends to use the powers it is giving itself under Bill 160 to cut costs by cutting teachers. This bill is an attack on teachers but it is also just the beginning, because if the government carries out its agenda, the attack on teachers through the cuts they make will be sustained, and there is no doubt in my mind that education of our students will suffer as a result.

The government members have been told to say this is not an attack on teachers, just on unions. I say to the government members, if you have met with any representative group of teachers lately, you will know how deeply and how passionately they feel about what you are doing to them — but not to them; they are passionate about what you are doing to education. As one teacher said to me just on Saturday: "I don't want to leave my classroom, I love my kids, but I can't let this happen."

Is this about teachers' jobs? You'd better believe it is. But what this government refuses to recognize is that teachers — not technology but teachers — are the cornerstones and the building blocks of a quality education system, and it is through the time with teachers, indeed the time with teachers that students spend both in and outside the classroom, that our students' needs are met. There is one basic equation that even people who run on common sense alone should understand, and that is that fewer teachers teaching more subjects to more students means less time with individual students, not more. The idea that the government's proposed cuts are about giving teachers more time with students is simply spin, the opposite of what will actually happen if this government carries out its plan.

Let me remind us all that they are just plans. There is nothing specific in this bill. The power to cut teachers, to remove the need for certification, is there. Nothing about how this power will be used is there. There is nothing in this bill about class size, except the power to decide what it will be. There is nothing about providing smaller class ratios for special needs students. All of this is to come later, and any decision this government makes in any of these areas can be changed by a single decision of cabinet at any time.

The title of the bill is to convince the public, and I think the Tory members, that this is about improving quality, but there is nothing in this bill that speaks to quality. There is nothing that speaks to guarantees of how government would improve quality. There are no standards of accountability for decisions cabinet will make. There are no criteria here to guide the decisions. There is no route to challenge cabinet if the quality of education deteriorates. There is nothing in this actual bill but power and control, and even the five-year review that is built into the bill is only a review of whether funding meets a test of fairness in the allocation between public and separate boards and English and French boards. It has nothing to say about whether the government's decisions have been fair to students' needs.



Mr Chairman, I believe I have 20 minutes and I have about five minutes longer.

**The Chair:** That's correct.

**Mrs McLeod:** I'm clearly not going to be able to address specifics of the bill.

Government members like to speak about improvements to curriculum — even the parliamentary assistant today has addressed the issues of the need for educational change, educational improvement — and nobody would disagree that there can be constant improvements made to our educational system. But when I hear government members address curriculum changes and the need for standardized testing, I say again, look at the bill. This is not what Bill 160 is about. What needs to be done in this area or what the government believes needs to be done is already being done. Some of it I agree is needed, some of it I even acknowledge is good, but none of it has anything to do with Bill 160.

The government does now have the power to set curriculum standards and to require standardized testing, and it is doing it. It has the power to make class size smaller. It can do it by providing the funding to make classes smaller. But none of that is part of this bill. This bill speaks directly to only three issues.

It seeks to set out some provisions to deal with the absolute chaos that is going to be created as a result of the government's Bill 104 on school board amalgamation. In the interests of rapidly receding time, I'm not going to get into too many details other than to acknowledge that it's going to create even more chaos.

If we want to talk about legality or illegality of any proposed job actions, you might wonder about what right the government has to unilaterally abrogate every single teacher's contract as of January 1, which is what this bill does, and require every teacher's contract to be renegotiated by September 1.

The bill also deals with how you combine assets in amalgamated school boards. It sets out the basis for how new schools can be approved. There is going to be chaos when parents start to realize that students in one school can be bused somewhere else in the new amalgamated area because there is space further away. That will be another issue for the future.

The bill gives the government the power to raise property taxes for education, the second area this addresses. It is, as I have already said, an unprecedented power given to cabinet to raise taxes through regulation, and I will be interested to see how municipalities and business taxpayers in particular respond when they see that Mike Harris the Taxfighter is raising their educational taxes. If in fact this leads to lower taxes because the government is concerned about exploding taxes in the past, I wonder what areas in education are going to pay for that, because tax increases in the past have served to provide smaller class sizes in grades 1 and 2, to provide junior kindergarten, to expand special education, to meet the individual needs of students. Some day, somebody in government is going to tell me which of those areas they think is wasteful and

should be cut when they take over taxation and the control of funding.

The third area, quite clearly, that the bill addresses is that it gives cabinet power to do whatever it wants to education. In areas where boards and teachers have had some power to negotiate in the past, the government clearly believes that they have been in the way, and this bill gets them out of the way.

You tell me, in what ways in any of these three areas does this bill have anything to say about quality education?

Something else this bill does, and I believe we'll see that, is open the doors to privatizing public education. All we have to do is look at the minister's list of people he believes are affected by Bill 160 to realize that it is an expected outcome of this bill.

I think we will hear, as a result of the minister's list, from every known advocate of radical education reform, from those who want to abolish school boards and who want to move immediately to a voucher system and to charter schools. We will hear the arguments of those who believe that this bill will bring about improved quality through competition. We will hear the Reform agenda of the Harris backroom ideologues who believe that the marketplace is the only determinant of what is good for society.

People who believe that the goals of publicly funded education must indeed be the achievement of excellence but must also ensure equality of educational opportunity will know that this bill opens the doors to our worst fears of multitiered education where those whose parents can provide the best in terms of support and extra resources will be just fine, while those who are disadvantaged in any way will have to manage with what the government will likely want to call the average, or less.

Teachers and a whole lot of parents believe that the opposition to this bill is a fight for quality in publicly funded education, and as someone who has been committed to publicly funded education for almost 30 years, I could not agree more.

**The Chair:** There will be a five-minute recess. We will reconvene at 10:30.

*The committee recessed from 1021 to 1028.*

**The Chair:** You have the floor, Mr Wildman.

**Mr Wildman:** I must say that in listening to the presentation by the parliamentary assistant, we didn't hear anything new and I had hoped that today we would, considering the confrontation that may be going to occur later this week and the fact that the minister is meeting today with the representatives of the teachers in an attempt, I hope, to avoid such a confrontation that would disrupt education for the 2.1 million students in Ontario.

This bill is not really about teachers, it's not really about boards of education and trustees, it's not really about taxpayers; it's about what this government can do that will benefit or will hurt those 2.1 million students in the province. Because what this government intends to do is centralize control over education. Despite with the

parliamentary assistant said about accountability, this bill in effect ends local accountability.

Complete control over education now will be centralized in the hands of the Minister of Education and Training and the Minister of Finance in the provincial cabinet. The cabinet will be able to make major changes that affect those 2.1 million students simply by passing regulations behind closed doors, and those regulations can be changed at any time when a cabinet and the minister decide to do so.

The questions that are central are, what kind of funding is going to be made available for the education of those 2.1 million students and what does this government intend to do to ensure they have quality education? There is nothing in the bill that indicates there is a desire on the part of the government to improve the quality of education.

The parliamentary assistant says that he looks forward to hearing the presentations, yet this bill is over 260 pages in length. It is a major piece of legislation. Because of the government members' decision last week before this committee, most of the presenters from the general public will be limited to 10 minutes. How on earth can they deal with the myriad of issues that affect the 2.1 million students in Ontario in 10 minutes? It's just impossible.

The parliamentary assistant says the government wants to ensure quality of education at the most efficient and effective cost. There is a tremendous amount of confusion out there about what the government's real intentions are. That's why we had hoped the minister would come before this committee and make it clear, because his parliamentary assistant apparently has not been able to. He has simply repeated the positions taken previously by the previous minister. There's a tremendous amount of confusion.

The Minister of Finance said last week that this government shouldn't have to take a billion dollars out of education to try and defuse the concern that is out there among the public, among parents, among teachers and among trustees about what the future of education is in this province, how much funding there will be. The government has refused to give us the funding formula to let us know how this government intends to fund education.

If the Minister of Finance was saying that the money will be reinvested in education, that's one thing, but he didn't say that. He said we shouldn't have to take a billion dollars out. The question then is obviously, how much is the government going to take out? How much money of the \$14-billion annual expenditure on education is going to be cut by this government as a result of the powers that are centralized at Queen's Park under Bill 160?

The parliamentary assistant says this government is committed to ensuring money is invested in the classroom, yet they won't give us the funding formula. The government has already taken out about a billion dollars on an annualized basis from education in Ontario. I think it's important for all of us at this table to recognize that in a service industry, if you want to use that term, like education the vast majority of the budget is in salaries. About

70% of every school board budget is teachers' and support education workers' salaries. If the government is determined to take \$500 million or \$800 million out of education, the only way they can do it is by cutting staff. That's the only way it can be done.

What this bill is also about is fewer teachers. When the government talks about preparation time and about time in the classroom, they're not talking about increasing the amount of time that students have with teachers. What they're talking about is cutting the number of teachers. The previous minister himself admitted that. He said that as a result of these changes there would be about 4,200 fewer teachers in Ontario. Other estimates say about 6,000 and some as high as 10,000.

We're not sure because we don't know what the funding formula is, neither do we know what the class size is because while this bill will give the government the power to set class sizes by regulation behind closed doors, it doesn't say anything about the numbers. It doesn't say whether the government is going to set an average class size or whether the government is going to set maximum class sizes. If they are going to set maxima, are they going to be lower than they are now, are they going to be the same as the average now or are they going to be higher? There's nothing in this bill that indicates the answer to that question, and you wonder why teachers are upset.

The parliamentary assistant quoted the Education Improvement Commission. He pointed out the Education Improvement Commission found that in Ontario teachers spend about 20% less time at the secondary level — I think that was the number he used, and it's certainly the number the EIC used — in the classroom than the average in Canada. Then the government in Bill 160 says they will legislate change, and the previous minister indicates that they are going to cut it by 50%. The parliamentary assistant says they're following the Education Improvement Commission. That's more than double what the Education Improvement Commission talked about. You're going to cut the amount of preparation time for secondary teachers by 50%. That's not what the Education Improvement Commission suggested at all.

The way government members talk about preparation time indicates a complete misunderstanding of what preparation time is and what it's used for. Most of the government members, when they talk about preparation time for teachers, ignore that they are working for students, the 2.1 million students in this province. They seem to think that preparation time is somehow wasted most of the time, ignoring the fact that teachers use that time to prepare classes for students, to get resources for lessons, to help students who need remedial help, to do marking, to attend conferences with parents, with other teachers, with psychologists and other education workers, particularly as it relates to students who need special education.

Simply cutting the preparation time is not going to increase contact with students. What it's going to mean is fewer teachers. Fewer teachers will mean larger classes, which means less contact individually between students



and teachers. It's the opposite of what the minister has said.

This government often cherry-picks from the Royal Commission on Education. I wish they had just heard the one central theme the commissioners put forward about education in this province. The commissioners described teachers as the heroes of the education system. The commission understood that in serving the 2.1 million students we have in this province the teachers have the central role. They are the most important resource. As the commissioner said, a dedicated, knowledgeable, caring teacher is the most important resource we have in the education system. Yet since this government came into power, the previous minister has spent most of his time insulting teachers, saying, in a very patronizing way, they were overpaid and underworked, saying they were inefficient and he wanted to help them become efficient.

1040

The Premier has said that teachers and trustees cannot be trusted to provide good-quality education for students. In that he's not just attacking teachers, he's attacking all of those who are interested enough in education to put their names forward to run for school boards in this province because they care about quality education for the students in their communities.

The Premier should listen and understand what the word "trustee" means. Why are people who are members of school boards called trustees? Because we entrust them with the education of our students. That's why they're called trustees. For him to say that they could not be trusted to provide quality education makes me wonder why there are any school boards left, because obviously this government doesn't believe in school boards, doesn't believe in local accountability over education, doesn't believe in local control over education. They want to centralize it all here at Queen's Park.

Under this bill, as the parliamentary assistant says, the Minister of Finance, not even the Minister of Education and Training, will set the mill rates for education across the province — \$6 billion in taxes will be set by the Minister of Finance — and this parliamentary assistant and this government say they're increasing accountability in the education system?

In order to have real accountability, every voter in this province would have to be able to vote directly for the Minister of Finance, because the Minister of Finance will be the one deciding how much they pay in taxes, not their local trustees. The Minister of Finance and the Minister of Education and Training will be the ones deciding how much is spent on education in their local communities, not their trustees.

Then the parliamentary assistant has the temerity to say that free collective bargaining is maintained under Bill 160. He points out that the government is leaving the right to negotiate salaries and benefits, the requirement to belong to a federation to teach, the privilege of principals and vice-principals to be members of the federations, all things that this government, not anyone else, threatened to take away in the first place. It's as if they threaten to steal

your wallet and then they give you 50 cents back and they want you to be thankful.

What this bill really does, it doesn't maintain free collective bargaining at all. It severely constricts the scope of collective bargaining for teachers and school boards in this province simply to be able to deal with salaries and benefits and nothing else. The irony of that, of course, is that because of the other provisions of Bill 160, the Minister of Finance and the Minister of Education and Training, because of the centralization under this bill, will prevent the boards from having any flexibility in negotiations, not only to deal with matters of teachers' salaries but also to deal with the amount spent in the classroom in their local communities. The Minister of Finance will decide the mill rates and the Minister of Education and Training will decide the level of grants. The school boards will not have any say. How they're going to negotiate anything meaningful is beyond me.

We mustn't forget that when we talk about negotiations what the teachers are talking about are not only their own working conditions but the learning conditions of students. When the right to negotiate class size is taken away from boards and teachers and centralized here at Queen's Park and essentially given to some unknown bureaucrat in the Ministry of Education and Training who will advise the minister, then we're not increasing accountability, we're decreasing it substantially, we're taking it away, because local communities will not have any control over class size and they won't be able to vote the minister out if he makes the wrong decision as far as the local community is concerned. They could do that with their trustees, and you say you've increased accountability.

Teachers want to be able to negotiate class size, not because they want to increase class sizes in exchange for higher salaries, as the Premier alleges, but because they care about students, they care about learning, they care about enabling kids to meet their potential. They know that lower class sizes mean greater opportunity for teachers to have individual contact with students. Lower class sizes, particularly for students with special needs, are essential. They should have a say. They are the professionals. They know something about students and students' needs.

Don't pretend that Bill 160 maintains free collective bargaining. It does exactly the opposite. That free collective bargaining that is being constrained and constricted by this legislation doesn't just hurt teachers, it takes control away from trustees on boards and, in my view, it hurts kids. Parents will not be able to hold boards accountable because boards won't have any say or any control.

It's strange that a government that professes to care about getting services closer to the people, about giving local governments more responsibility and control over services and taxation in communities, would be doing the exact opposite in education under Bill 160. How can this government square what it purports to be doing on the municipal side with what they're doing in Bill 160, centralizing control here at Queen's Park so that some gnomes over at the Ministry of Education and Training



can decide everything they want and nobody in the local communities will have any real control or any say?

I suppose people can go and talk to their MPPs and MPPs can raise concerns in the Legislature and that may have some effect, but MPPs won't have any say over this either, because it's not going to be matters that are raised by amendment to legislation in the assembly. The changes will be made by regulation, regulation that will be decided behind closed doors at the cabinet table on the recommendation of the minister. It won't be open to public scrutiny. There won't be any accountability and there certainly won't be any local control.

Why are teachers so upset? Why are they so concerned about the 2.1 million students in this province? Because they believe that this government is centralizing control for one reason and one reason only. Not because they care about the quality of education for students but because they see dollar signs. They see the opportunity to take a significant amount of money out of education to help pay for the tax cut. They are going to take money out. The question is, if it's not \$1 billion, as the Minister of Finance indicates, how much? We need to see the funding formula, we need to have a commitment that this government will reinvest in education, and we don't have either of those things from this government.

In that sense, I suppose these hearings are a bit of a farce. I look forward to the presentations. I hope they will persuade the government members to rethink their position and to make a recommendation to the government for major changes to Bill 160, but if we don't hear from the minister, we don't have any indication from the parliamentary assistant that there are going to be real changes in this legislation.

It appears to me that at this point the government is headed for a confrontation, a confrontation with teachers who care about the 2.1 million students in the province, a confrontation that will have long-lasting effects for education in this province and one that could be avoided if the government was seriously interested in the quality of education.

**The Chair:** Thank you very much, Mr Wildman.

1050

#### ONTARIO EDUCATION ALLIANCE

**The Chair:** Our first presentation is the Ontario Education Alliance, Jacqueline Latter, founding member. I understand you are accompanied by Stan Kutz and Douglas Little. Welcome. I believe the members should have received part of a written presentation. Some backup materials, is it?

**Ms Jacqueline Latter:** No, I don't believe that's ours, Mr Chair.

**Clerk of the Committee (Mr Douglas Arnott):** It is.

**The Chair:** The clerk advises me that it is.

**Ms Latter:** Oh, I'm sorry. Yes, it is.

**The Chair:** Okay. Please proceed.

**Ms Latter:** My name is Jacqueline Latter. I'm a parent of two students in the Toronto Board of Education in the

high school system. To my right is Doug Little and to my left is Stan Kutz, who will both be speaking after I've made some opening remarks.

I would, first of all, like to commend the opposition for their valiant attempts to introduce some democracy into this sham of a process. The fact that the Minister of Education is not even here to make opening statements is not only puzzling, but I find it offensive to the number of people who are here to make presentations. If the minister can't take the time to come and listen to some of this at least, what is the point of the hearings?

I would also like to comment on the fact, as has already been commented on this morning, but I think you're going to hear this repeatedly, that over a thousand citizens of this province applied to speak to this committee, and I don't consider that the committee hearings visiting six locations for a total of less than 50 hours is extensive public consultation. I just repeat, I think it's a sham of a process.

The list of organizations that the government had originally put out of people they wanted to invite contains four organizations that are concerned with home schooling. I fail to understand, as a parent and a taxpayer and a supporter of the publicly funded education system who sends her children to the school system, why four organizations who don't participate in the education system and choose to home-school would even be invited to these hearings. I also note that at least seven organizations are from either the quality education reform groups or the charter schools supporter groups or the Ontario Parent Council whose chair happens to be a member of the C. D. Howe Institute, which also happens to be another invited group.

But when I went through the list, as I read the list of other groups invited by the government, including the Ontario Chamber of Commerce, the Alliance of Manufacturers and Exporters, the Ontario Homebuilders' Association, the Association of Municipalities of Ontario, I realized what had happened and I'm going to enlighten the government members because they clearly haven't realized the mistake their administrative people have made. They've used the list of their campaign contributors and, now that I've pointed it out to them, I'm sure they will make amends and I'm sure they will make sure that the list is revised accordingly and the person who made this dreadful error will be severely censured.

As we all know, the now-demoted Minister of Education created a crisis. He promised to do that, he did that and he has now suffered the consequences. However, you now appear to me to be a government in crisis. The Education Quality Improvement Act, Bill 160, is interestingly misnamed because it's certainly not about quality. It would take an incredible stretch of the imagination to assume that it was about improvement and, to my mind, it has very little even to do with education.

What it does have to do with is about stripping powers from local communities and enormous amounts of funds from a system to fund a promised tax cut. By the way, I think you've heard this repeatedly over the past two years, your promised tax cut benefits very, very few people and



they tend to be people on the wealthier side who could probably manage quite well without the tax cut.

The lack of information on the funding formula is of grave concern because we realize that a lot of the attention in the media and with the general public has been focused on certain aspects of the bill that may cause a province-wide walkout of the teachers which, by the way, we would support because we feel they're justified in any action they take, given this government's draconian measures on the education system. The lack of information on a funding formula is of grave concern to us because without any information on how you are planning on funding the system, parents and communities and taxpayers have no way of responding to other parts of the bill.

What the government has managed to do in the past two years, particularly with its education policies, is they've managed to upset almost everyone on this province all of the time. The Ontario Education Alliance would consider nothing less than the withdrawal of the bill to be an acceptable way of resolving this crisis and immediate information produced for the citizens of this province on the funding formula.

I would like to turn the proceedings over now to Stan Kutz.

**Mr Stan Kutz:** I'm a retired senior citizen. I recently retired as principal of a high school in Metro Toronto. I'm the former president of the Catholic Principals' Council of Ontario.

I would like to deal with a few of the specifics in this bill. In the novel 1984 George Orwell told us that, "A time could come when language would be used to deceive, when the lie would be regarded as the truth, when fear is love, slavery is freedom," and I would add, "When destruction is disguised as improvement."

One of the cleverer, and I do give the ministry and its minions credit for cleverness, deceptions that is included in the buzz of misinformation that is going out from the ministry around Bill 160 centres around the issues of prep time and teacher-pupil contact time. They have cleverly managed in the eyes of many of the public, I fear, to give the impression that there is a positive connection between these two things. I want to disabuse the government members of that notion, if they do suffer from it.

Loss of teacher preparation time does not mean that students will have more time with their teachers. What it does mean is that teachers will be spread more thinly and that therefore the actual amount of time and certainly the quality of time that students have with their teachers is diminished, not improved.

But as I say, the spin doctors have managed to create the impression that there is a positive relationship between a reduction of teacher prep time and an increase of pupil-teacher contact. It means that teachers will indeed be in contact with more students, but they will not be in contact with them for one minute longer and they will certainly not be able to give those students more because they will be dealing with up to 25% more students if the government's wishes were carried out.

This so-called improvement has nothing to do with education. It has everything to do with reducing spending on education and with laying off teachers. If the government members need a slogan, a mantra to work with, let me suggest the following: that teachers' working conditions are students' learning conditions.

#### 1100

A second area I would like to deal with is the issue of unqualified or uncertified teachers in the classroom in areas like guidance, kindergarten, industrial arts, library, music, visual arts, physical education. I understand, if the media are to be believed, that the very new minister has said, "Oh, we never intended that should mean that uncertified teachers would" — I believe his language was — "head the classroom." Ladies and gentleman, I suggest to you that either the minister doesn't know what he's talking about or he certainly doesn't understand what the drafters of this bill intended.

It has always been possible, it has always been the case that teachers, to the extent that resources were available, would bring experts into the classroom from whatever field was appropriate to enhance the instruction of students. That has always happened. The only things hindering it happening more were the lack of resources and funding. For the minister now to suggest that's all they had in mind is clearly that either he doesn't understand what the drafters of the bill really had in mind or he is deceiving the public as he backs and fills and tries to escape some of the more bizarre dimensions of this document.

I was a Roman Catholic educator. I'm still a Roman Catholic. Although I'm no longer an active educator since my retirement. As a Roman Catholic I must applaud one and only one dimension of this bill, and that is the one that guarantees equal per capita funding to the Catholic separate school students of this province, though even that still leaves open huge questions in my mind about the inferior physical plant and facilities that for the most part characterize the separate school systems throughout Ontario.

How those deficiencies are going to be made up on a basis of equal per capita funding is not at all evident to me, if indeed the intent of the bill is to provide a truly level playing field for every student in the province. But assuming that is taken care of, I have serious concerns about issues of governance as a Roman Catholic. In this bill, for example, the minister can transfer schools from one board to another and there's no mention of any denominational guarantees. Theoretically, at least, the minister could transfer a school from a Roman Catholic board into a public board.

For that matter, since schools will now be financed totally as of January 1 out of provincially levied taxes, what is the significance, constitutionally and legally, in terms of the upcoming election for trustees of the distinction between public and separate school electors? It used to be that you were a separate school elector if you dedicated your taxes to the separate school system. After January 1, and that's whom we're electing these trustees for in November, taxes are going to be collected from



everyone on whatever basis the Minister of Finance determines and will be assigned to school boards presumably on a per capita basis, in terms of how many students they have.

Given that situation, why can't I, for example, on November 10 vote for both a public school trustee and a separate school trustee since my tax money is going to be supporting both systems equitably on a per capita basis? I think I have an interest in both. Conversely, because I am a candidate for trustee in the elections, why can't a public school supporter vote for me if he so chooses, in other words vote for both trustees in both systems? I see no evidence in the bill that the government has thought about this issue, much less come up with any rational response to it. It will certainly be my intention very shortly to seek a ruling from the chief electoral officer on this matter.

The bill creates an absolutely intolerable situation for the newly elected trustees. That's been alluded to by members of the opposition already, because it will leave trustees in the situation of having responsibility for a host of things, including negotiation with teachers and other employees, including making decisions about which programs have priority within a funding system over which they have absolutely no control. Trustees are left with all of the local responsibility and absolutely no power to deal with it in any responsive way within the local community. Their hands will be absolutely tied by the funding formula that is determined not by the Minister of Education but by the provincial Treasurer.

I don't know how the government members imagine that you can have responsibility without power. The effect of this anomaly will be as follows: The government will determine the funding model. The trustees will be left to divvy up an inadequate package as best they can because it's clear the government intends to take money out of the system. The trustees will then gather all the flack and anger and outrage from parents, from students, from teachers, from the community generally, because they're the ones on the local scene.

Then within three years the government will be able to achieve its true final purpose, namely, to say: "This isn't working. School boards don't work any more. They can't handle it. They're not doing what we would like them to do. Therefore in the next round we won't need school boards at all and we will move towards what we always wanted to achieve anyway, which is a privatized system either through charter schools or by whatever formula." That will end up giving us what this government has already striven to achieve in the area of medicare: a two-tier system where those who have the resources or the connections can do very well for their children and those who don't are left with what is left.

Ladies and gentleman, given that there's one thing in the bill that I do approve of, I would like to imagine that it could be improved, but I don't believe it can. I would suggest to the government that they follow their own *modus operandi* with respect to what to do with this bill, because to improve "education" they are really setting about to destroy publicly funded education as we know it

in Ontario. I think to improve Bill 160 you're going to have to destroy it as well. Kill the bill. Thank you.

**1110**

**Mr Doug Little:** My name is Doug Little. I'm presently a teacher in the Toronto Board of Education and a founding member of the Ontario Education Alliance. In previous incarnations I was a trustee on the Toronto Board of Education, a trustee on the Metropolitan Toronto School Board, a founder of Our Schools/Our Selves magazine, and I write periodically for Now magazine on education issues.

I would like to draw your attention to the documentation I gave you called *The Alternative Ontario Budget Papers*, figures which put the lie to a great deal of the misinformation we are getting in Ontario that we have a bloated system that needs cutbacks. Out of 50 states, the District of Columbia, 10 provinces and two territories in Canada and the United States, Ontario ranks a shocking 45th in spending per pupil measured in US dollars.

Ontario is spending just a little more than half as much as states like New Jersey, New York and Connecticut and far less than comparable border states like Michigan and Pennsylvania. Ontario is even outspent by poorer states such as Kansas, Nebraska and Missouri. Within Canada, although Ontario is the nation's second-richest province in terms of per capita income, it is outspent by poorer provinces like Quebec and Manitoba as well as by comparable provinces like British Columbia.

Pupil-teacher ratio is a much misunderstood figure since it fails to consider huge numbers of teachers such as principals, guidance, library and low-ratio teachers like special education. That is why we still have classes in Ontario of 35 to 40 students. Nevertheless, it is a wisely used figure since it's easy to calculate and at least measures the total number of teachers employed by a jurisdiction in relation to the students. It is the only figure that all jurisdictions seem to keep.

Here again on the charts in the documentation you've been given, Ontario has an abysmal record, according to the alternative budget people. The pupil-teacher ratio in Ontario is 18.5 students per teacher. Once again, that is deeply into the bottom half of North American jurisdictions, in 45th place out of 64. The chart shows very poor jurisdictions such as West Virginia, Arkansas, Puerto Rico, Louisiana, Alabama and even historically backward Mississippi employ more teachers per student than Ontario does. Figures on this chart come directly from the US Department of Education and the Ontario Ministry of Education and Training.

Every two years the Ontario Institute for Studies in Education at the University of Toronto publishes a comprehensive study on Ontario's attitudes towards education. The most recent 1996 study contains figures which work hand in hand with those of the alternative budget. The study recorded by Professors Livingstone, Hart and Davie at OISE was reported by Professor Livingstone to a meeting of the Ontario Education Alliance recently.

Professor Livingstone summarized his study of Ontario education opinion polling by showing that only 13% of



Ontarians actually want to cut the education budget as the government is doing. Of all other Ontarians, 34% want the education budget maintained — that would be holding it at least at \$14 billion — while 48% of Ontarians want it increased.

Livingstone continued that a slim majority of Ontarians would actually be willing to pay a tax increase for education if they could be sure the money would be used for education. A majority of 54% would much rather maintain support for education and health than for reducing the deficit, 29% of Ontarians, and cutting taxes, 8% of Ontarians.

Not surprisingly, you will see from the data, of all occupational groups only corporate executives prefer to decrease the spending on education. We are all well aware that it is these CEOs who have the ear of the Harris government and Education Minister Dave Johnson.

We are, overall, in a unique situation. The government says we spend far too much on education. They have already removed \$1 billion and plan to remove most of another \$1 billion. The comparative figures show we spend far less than most jurisdictions in North America and that most Ontarians, except CEOs, want us to spend more on education. We have yet to see who will win, the Tories and the CEOs or the other citizens of Ontario.

**The Chair:** We have a little over a minute per caucus for questions or statements.

**Mrs McLeod:** I wonder if any one of the three of you might be able to answer. Jacqueline, you particularly mentioned the numbers of alternative school advocates. The concern was mentioned about moving immediately to charter schools. Do you see aspects of this bill that lead you to believe that what we're opening the door to is increased privatization?

**Ms Latter:** Yes. First of all, I see the undermining of the democratic process at the local level and the reduction of the mandate for the school trustee as being the first nail in that particular coffin. Although we have what's now called the Fewer School Boards Act, I see that as the No School Boards Act. I would not be surprised at all if the next municipal elections in the year 2000 have no school board elections at all and there are no school boards and that charter schools and voucher systems and privatized education become the order of the day.

**Mr Wildman:** Is it your view that Bill 160, along with Bill 104, is a centralization of control over the education system within the ministry? If that is your view, beyond eliminating local control over education and school boards, what is the ultimate aim, as far as you can see looking at these two pieces of legislation together, of the provincial government?

**Mr Little:** One of the interesting things I've run across, I receive faxes from the Quality Education people, some of the groups that are most interested in charter schools and voucher systems. What is interesting is the contradiction. Some of them participated in the writing of the educational section of the Common Sense Revolution and they are now calling the present bill "Stalinist,"

"overcentralized" and "centralizing all power in the politburo in Ontario known as the cabinet."

There's a tension between decentralized conservatives and centralized conservatives. The people who want conservative local schools are in a conflict now with the people who want corporate-dominated schools and that will have to be worked out on the conservative side of the political agenda.

One of the most important privatizing tendencies within the bill is differentiated staffing. This is a demand by the people who would like to privatize education so that when they get into a privatized education system, they can hire all the teachers at \$25,000 or \$30,000, get the same grant as the school boards that pay \$50,000 or \$60,000 and then have the difference to spend on upgraded computers and gymnasias and so forth, and try to present that as a higher-quality system. It's a way to get the money for the grant but not spend it on teachers.

**Mr Newman:** There are some comments Ms Latter made about the groups that are coming forward. I spoke about the home schooling groups. What I'd like to hear from them is why they chose home schooling over the publicly funded system. You also mentioned the Ontario Home Builders' Association speaking on the bill. I think it's important to look at sections 145 and 146 of the bill, which deal with development charges. That may be the reason why they are indeed speaking on the bill.

I'd like to get your thoughts on the Toronto Star editorial of October 13, where it said: "Some boards spend twice as much on each of their students as other boards spend on theirs. While some of those differences can reflect different needs and costs, others can't be justified." The editorial goes on: "The second good reason for Queen's Park to take over education is accountability. Right now the system is run by a confusing and sometimes contradictory array of provincial laws, regulations and directives, school board policies and union contracts. The confusion lets each player duck responsibility when things go bad."

That's not me speaking, that's the Toronto Star editorial speaking. What I'd like to know is, does this confusion exist in the system today that allows each of the players to duck their responsibilities?

**Mr Kutz:** If I might respond to that: If you had read further in, I believe in the same editorial it says: "If the government were being honest, it would take over province-wide negotiations with teachers." In a subsequent editorial, the same Toronto Star refers to what is happening right here in this room as the Tory tea party.

**Mr Newman:** I asked you specifically about that point.

**The Chair:** Thank you, Mr Newman. I'm afraid your time is up. Lady and gentlemen, I thank you very much for assisting the committee here today.

Is there anyone here representing the Canadian Taxpayers Federation? Yes. Okay, then I ask the committee: Our third group on the list, the Ontario English Catholic Teachers' Association, has asked for some guidance from this committee as to whether or not we will proceed through the lunch-hour, if that's possible.

Perhaps we could decide that. I don't know how we do this because it would mean a reduced committee, because obviously some of us would like to eat. What is the desire of the committee? I am subject to your guidance.

**Mr Cordiano:** As it's time-allocated, I don't think that would be appropriate at all.

**The Chair:** It would mean they would go over to the afternoon and it would bump from there.

**Mr Cordiano:** You certainly would not want to eliminate their time.

**The Chair:** So you are in favour of proceeding through the lunch-hour?

**Mr Cordiano:** Whatever accommodates the groups at this point, I think we have to do that. We're not going to cut out a group from its presentation.

**The Chair:** I understand your position.

**Mr Wildman:** I share the view of Mr Cordiano: whatever we can do to accommodate the groups. Maybe a suggestion from Doug would be that we have a half-hour for lunch rather than an hour.

**The Chair:** It would seem we have a consensus that we will proceed until our lunch-hour at 12:30 to 1. Is that agreed?

**Mr Wildman:** May I make one comment with regard to this? If we do that, as you've suggested, it would be better, I suspect, for the representatives of OECTA if they could appear before we break rather than after since they have to meet this afternoon with the minister, and they might actually find out something rather than just what the parliamentary assistant has to say.

**The Chair:** Yes, that's what we're trying to do. The Ontario English Catholic Teachers' Association will follow immediately upon this presentation before our lunch break.

1120

## CANADIAN TAXPAYERS FEDERATION

**The Chair:** Sir, would you please identify yourself and proceed.

**Mr Brian Kelcey:** My name is Brian Kelcey. I'm the Ontario director of the Canadian Taxpayers Federation. Just before I begin my written remarks, Mrs McLeod and Mr Wildman, you've both made some interesting comments, Mrs McLeod particularly on privatization and Mr Wildman on the regulatory issue, and I ask that you remind me to deal with those in the question period if possible.

For the second time in as many months, I have been asked to comment on a major piece of legislation despite the fact that its exact contents may be overtaken by events literally hours away. While there are good reasons for this, I hope members will forgive me if this inspires some generalities on my part.

Bill 160 is titled the Education Quality Improvement Act. It is, unusually, an attempt to use the law to improve education. At its simplest, its premier aim seems to be the conferral of greater powers on the Lieutenant Governor in Council and the ministry to set common standards across

the system on curriculum, operations and finance, and in doing so to begin the province-wide renewal of the education system. During a recent tour by CTF representatives through the Kitchener-London region we made a point of raising this issue with ordinary Ontarians. That sample and our members have expressed widespread sympathy for this approach.

This terse summary belies the fact that the debate on this bill seems driven more by politics than by problem-solving. Take, for instance, the debate over class sizes, the fact that a glut of teachers is at the top ranks of the incremental pay grid, and the impact of that glut on class sizes and school finances has been virtually ignored so far in public discussion of the issue.

As another example of how the debate over the features of this bill has been simplistic, take a look at the issue of professional preparation and development, best expressed in Bill 160 in the amending section 81, which amends section 170 of the Education Act. The debate over this issue has ground down into calls for larger or smaller scales of prep time. Frankly, calls to preserve existing levels of prep time justifiably create suspicions among taxpayers. Many taxpayers have a hard time understanding why teachers must interrupt so much of the school year for preparation and development when there's an awfully big block of time annually, called summer, that can be used for precisely these purposes.

If teachers or members of the government are seeking some sort of quantitative compromise on this issue, that compromise could gain considerable public sympathy, I might add, on both sides if it addressed the ignored half of the problem, namely, the quality of preparation time and professional development, an issue that was touched on by earlier speakers. What seem to be missing from this bill are the means to make preparatory and development time accountable, which may answer some concerns of the taxpayers and may reveal some of the things teachers are talking about that we taxpayers don't yet understand.

Full school choice would be in our view the best alternative of achieving this, but there are others which conceivably could be worked into Bill 160: Ensure that material to be studied on professional development days is accessible to the public; make teachers individually accountable to the parents, students and ratepayers they serve for how prep time is used. We know what happens in class, so tell us what happens outside, specifically. As professionals who are responsible for some of our most vulnerable citizens, it's the least we can ask of teachers. Let ratepayers and parents see, at cost, minutes of educational discussions and seminars that they are paying for. Don't empower the province or the school boards to enforce these ideas. That would be micromanagement. Do empower school councils or individual ratepayers to do so.

That point made, with the committee's indulgence, I'd like to direct a couple of specific concerns heard among our members and supporters related to this bill and the debate about it.

To the government, this is an excellent time to note the poor political cost-benefit in inspiring heated resistance to



what is seemingly only half a reform package. Further steps would have produced more rational changes with greater benefits. My predecessor, Mr Paul Pagnuelo, put our case this way in a 1996 presentation to a general meeting of the Ontario Public School Boards' Association:

"With funding having been taken over by Queen's Park, curriculum being provided by some unknown geniuses in the Mowat Block, testing and evaluation being carried out by an independent agency and school governance being handled by school councils, what's left for the boards?"

School boards as we now understand them — this is why I wanted to touch on this case in detail, Mrs McLeod — are obsolete. They have been made obsolete not even so much by the government's changes to school board finance powers but by increased use of such things as the phone, the Internet and the automobile. In an era when self-governance, specialization and healthy competition by individual public schools with considerable teacher and community input are possible, the obsolescence of school boards is a progressive development; or rather it could be a progressive development. Our support as an organization for the general direction of this bill is based on the fact that this is at heart, or seems to be at heart, an attempt to set standards, not to install centralized management of education. Micromanagement of education would not earn such support, since the system would better thrive with choice, diversity and innovation.

Micromanagement won't work. It won't help real teachers teach real students, it won't reward merit and it won't provide the renewed quality and efficiency our students need. The government must look at this bill as a framework to restore some basic confidence in the system, not as a framework to transfer bureaucracy from the hinterland to Queen's Park. Confidence in the basics is needed primarily so that Ontarians can become equally confident in greater innovation and local flexibility, and I might add local governance down the road.

To the opposition too a friendly word of warning: Anyone who's had any experience as an activist with high school students, as I do, can tell you that while schools are wonderful and uniquely enriching places to engage in well-rounded debates and activities, they are, conversely, uniquely exceptional breeding grounds for hysteria, misperception and ignorance if used as hosts for one-sided political discussion.

There have been widespread and disturbing reports that class time is being used to discuss the political and contractual concerns of teaching unions without representation from opposing views. Our members have not been quiet in expressing opposition to such efforts, yet you have.

As far as classroom discussion is concerned, partisan members need to forget their views for the duration. Whatever your view or my view or a parent's view, a class on public policy is a place for well-rounded debate where opposing views must be heard. To fail to uphold this standard tacitly endorses one-sided classroom pro-

gramming of students for a whole range of views that neither the opposition nor its critics might find so opportune in the future.

We are an organization that has always prided itself in the fact that the empowerment of all citizens, regardless, I might add, of their point of view, promotion of the vigorous and diverse public exchange of ideas and a quest for freedom of information are as important in our mission statement as the push for responsible use of tax dollars. Opposition members would do themselves and their cause credit if they would uphold a similar standard. So please loudly join the chorus of those opposed to the use of school or class time, officially or unofficially, to further a single political view.

Thank you for your invitation and consideration. With all sincerity on behalf of my members, with the need to avoid a catastrophic strike in mind, I wish the parties meeting this afternoon the best of luck in their conversations in the hope they may avert the coming strike.

**The Chair:** Thank you. Mr Kelcey has left each caucus three minutes for questions. We start off with the third party.

**Mr Wildman:** Thank you for your presentation. I note that in your opening remarks you indicate that you recently toured the Kitchener-London area. This may explain something that's been rather puzzling to me which I couldn't find an explanation for. Over the last three weeks — when was your tour?

**Mr Kelcey:** A couple of weeks ago.

**Mr Wildman:** Over the last three weeks I've received this many letters from the Kitchener-Waterloo area. I went over to talk to Mrs Witmer, who represents that area, and asked her what was going on because I was getting so many letters from the Kitchener-Waterloo area, and she said, "Well, they're very upset."

**Mrs McLeod:** They've been provoked.

**Mr Wildman:** Perhaps they were provoked.

**Mr Kelcey:** If I may ask about what in particular, since one never knows.

**Mr Wildman:** In opposition to Bill 160 from parents, from teachers, some from educators at the post-secondary education level and so on. But I couldn't figure out why I was getting so many more letters from Kitchener-Waterloo than I was from other parts of the province. I guess you must have provoked some debate.

You quote your predecessor, Mr Pagnuelo, who appeared I think before a committee on Bill 104, about what's left for boards, and I agree with that statement. There isn't anything for boards in Bill 104 and Bill 160, the government's legislation. They really have nothing to do except take complaints, I guess, from the public.

I'm surprised an organization such as yours would support the concentration of power in the Lieutenant Governor in Council — you refer to LGC — the cabinet, in other words. Isn't this kind of centralization of control over a service that is so important to the whole community a bad thing rather than a good thing?



1130

**Mr Kelcey:** That touches on an issue I had hoped you would raise. Yes, I think it's a fair comment in some ways, that while the government may be seeking to look at regulatory changes as a means of doing this, and while there might be a legitimate argument for doing so in that, for instance, obviously circumstances are going to change as enrolment changes, we would see no harm in reversing that and installing sections of the act to accomplish the same purpose.

If the concern is whether or not there's going to be debate over when these changes take place and how they will change and whether there's going to be full discussion about them in the Legislature, certainly I would agree that's something we would have considerable sympathy with you on.

On the issue of centralization too, if you followed our comments in regard to the government's initiatives, particularly on municipal governments, very recently, in fact a couple of days ago, with concern about overcentralization of the health reform process, and to a certain degree the education process, yes, we're very concerned that the government seems to be in an era when we think more localized control by local taxpayers, and in this case teachers and members of the community, would be more useful, and the government's drift is towards centralization.

This is the one case where we've been giving the government the benefit of the doubt in the sense that what I've been hearing to a limited degree, and what Mr Pagnuelo heard before me from principals and staffs of various institutions and in education consultation sessions, is that the drift coming from principals was that they have been told that, as a result of the fact the school boards will have virtually nothing to do, more and more of that power will, whether it's by accident or design I don't know, devolve to the individual schools.

The point I'm trying to make is, if that's what is actually going to happen, that's good. If that's not what is going to happen, our position will change very dramatically and loudly as time goes by.

**Mr Wildman:** I understand your point, but you do say "its" — meaning the bill's — "premier aim seems to be the conferral of greater powers on the LGC," in other words, on the cabinet and the ministry.

**Mr Kelcey:** Indeed; fair comment.

**Mr Dave Boushy (Sarnia):** There have been, at least as far as I'm concerned, some confusing statements made about unqualified teachers that I would like your opinion on. It has been said that there's opposition to our position to introduce unqualified teachers in the system, and yet today we heard that actually there are so-called unqualified teachers in the system right now. As a matter of fact, I understand in my own riding there have been about 50 of them. Give me your idea why there's such opposition if they are in the system right now.

**Mr Kelcey:** I don't think it will surprise anyone to say the two most obvious conclusions you could come to are that, on the positive side, I'm sure there are many teachers

who have genuine concerns about bringing people who aren't professionals into the system, who can't be governed by the regulations which govern teachers; and on the negative side, you're dealing with a collective bargaining issue and bargaining units where there's concern that bringing in such people will begin to break down the power of the collective bargaining units and staff institutions which are now at work in the Ministry of Education and Training.

I will have to admit, though, that I too am confused as to precisely what the government's intent is with that particular section. If the government's position is to have teachers, as was said earlier, at the head of a particular class and bring in unqualified people as assistants and so forth, I can't see what the fuss is about on either side. That's the best answer I can give you, based on the information I have now.

**Mrs McLeod:** Just to clarify for Mr Boushy, I think as Mr Little said, the experts who can now be invited into the classroom and are regularly invited into the classroom by teachers are not heading up the class. Clearly the intent of this legislation is to replace certified teachers at the head of the class with uncertified personnel.

I share your wish that there was more time to discuss the educational issues that are indirectly at least being affected by this bill. I wish there were more specifics in the bill. If there was time for a greater public understanding we might even be able to deal with the issue of why preparation time cannot be used in the summertime, cannot serve the purpose in the summertime: Much of it is used to mark papers and students haven't written papers in the summertime. It can't be used to cover for teachers who are on sick leave, which is a significant use of preparation time by Ontario teachers, unlike other provinces. It certainly can't be used to set up chemistry labs or shops for the students' use that afternoon.

The question I want to ask you is, I re-read the brief very quickly and I would have thought that coming in representing the Canadian Taxpayers Federation, you would have wished to address the issue of taxation and the government's powers under this bill to levy property taxes for education. As you know, it is unprecedented in Ontario for the government to be levying taxes directly on property, so it's an intervention in the property tax base. Second, it's a power that is going to be exercised exclusively by cabinet, without recourse to any kind of tax bill. I don't believe there are precedents for taxation without a vote in the Legislature on a bill that is therefore presented for public debate. I wonder if you would comment on both the intrusion into the property tax base by the provincial government and the power of government to raise taxes by regulation.

**Mr Kelcey:** I imagine the member is correct, and if she is, I must apologize for not studying the bill more closely. I wasn't aware that the property tax power would be contained exclusively in cabinet. If so, obviously there is no need not to have such discussions inserted in budgets or for standard public debate, as any legislator would. That's clearly the kind of thing that should be out in the open.



As far as the powers are concerned, though, I have to admit I was somewhat sceptical of, I guess it was Mr Wildman's, arguments earlier, about the issue of accountability, in that there are all sorts of things governments are doing with ministers who aren't elected directly now, of various political stripes across the country, for which a lot of people would love to have direct accountability from those cabinet ministers.

**Mr Wildman:** To defeat the government.

**Mr Kelcey:** Yes. That's the only way, at this point. I'm pleased to see, in particular at least from what I've read of the submissions, that in the discussions of the use of initiative legislation recently by — I'm afraid I can't remember the name of the committee —

**Mr Cordiano:** The Legislative Assembly committee.

**Mr Kelcey:** — the Legislative Assembly committee, that the NDP for instance and the government both supported creation of initiatives because it could serve, indirectly, precisely that purpose. As for the transfer of power generally, I have to admit one of the most frustrating things on our end in dealing with the education issue is that you get school boards that play these games, and let's be blunt, they do, where if there's a provincial cut, the school board then cuts front-line teachers and blames the province, and then the teachers blame the province and the school board, and the school board blames the teachers and the province. You end up in this ridiculous shell game that's going around in circles.

At least here, if earlier submissions are correct and the public is eager for a tax increase to pay for education and wants more money to go into the system, then at least you'll know whom to vote for and whom not to vote for, rather than having to guess who's actually responsible for the cuts that are taking place.

**Mrs McLeod:** Do you believe at least that power should be in the legislative hands and not in cabinet's hands?

**Mr Kelcey:** Sure, I have obviously no problem with that.

**Mrs McLeod:** So you'd propose an amendment.

**Mr Kelcey:** If I may just add one brief comment in regard to the preparation time issue, obviously, some preparatory time is going to be needed between classes and so forth, but your comment was of course that some of that time is used. What taxpayers are eager to know is, what about the time that isn't used for those purposes? It's my understanding that in Saskatchewan, for instance, teachers are required to go through a simple process of justifying to the public, through available documents, what preparatory time is used for in general.

**Mrs McLeod:** It's unfortunate we won't ever be able to discuss that again after this bill passes.

**Mr Kelcey:** Well, there are always debates outside the Legislature.

**The Chair:** I apologize to the committee, because I only allocated 20 minutes. There is another nine minutes, so if there are further questions of Mr Kelcey we can still proceed and we can start off with the opposition once again, with two minutes per caucus.

**Mr Wildman:** I found Mr Kelcey's answers quite comprehensive and useful, and in the light of the constrained time frame we have, perhaps we could move forward if other members of the committee agree.

**The Chair:** Are there any questions? None from the government caucus? I thank you very much for your presentation, Mr Kelcey.

1140

#### ONTARIO ENGLISH CATHOLIC TEACHERS ASSOCIATION

**The Chair:** We are now proceeding with the next presentation, from the Ontario English Catholic Teachers Association: Jim Smith, first vice-president, and Marshall Jarvis, president. Good morning.

**Mr Marshall Jarvis:** First of all, let me begin by thanking you for extending the hearings this morning. We have a meeting of some consequence later this afternoon with the minister, and we do appreciate that fact.

I'd like to introduce the individuals before you this morning. I'm Marshall Jarvis, and I'm president; Claire Ross is general secretary; Ray Fredette is a staff person; Jim Smith is our first vice-president.

Our organization represents 34,000 men and women who teach within the Catholic schools of Ontario. We cover the entire spectrum of education from junior kindergarten right through to the OAC. Moving directly to the point, we believe the Education Quality Improvement Act will not assist in any significant way in improving the quality of education in the classrooms of the province. Instead, what Bill 160 introduces is a significant shift in terms of power and money within the educational system. In actual fact, we believe it will be a move that will not assist in the smooth transition to the new district school boards, which seemed to be the focus of the reason for coming forward with Bill 160; instead, we believe it will actually further destabilize education in Ontario.

I point out the following to you just as an introduction to that: If you would turn to page 9, there is a table there. On that table it indicates the breakout in terms of the number of separate school boards that will exist after amalgamation, and that's 34. They are going to be extremely large in geographical area but we're not debating that point. That is not the point of the discussion here. Instead what I wish to highlight is this: 21 of those boards are not amalgamating, not changing; 13 are. Then when you turn over and you take a look at what the act requires, and that's on page 12, it requires that every collective agreement in the province must be opened on January 1, 1998.

Of course the fundamental question that one has to pose at this point in time is, why? Why is that needed? What is the requirement for over 70% of the students and teachers of Catholic schools in Ontario having to enter into another bargaining regime, which according to this government is not a good one under Bill 100 but which in actual fact has a 98% success rate? As a matter of fact, in the Catholic

schools of Ontario, there have only been seven lost days in six years, and that occurred last year. Bill 100 seemed to work fairly well, but we'll open them all up at the same time and see what happens. The question is, why?

At the same time, if we're worried about the classroom, teachers are dealing with the new curriculum in grades 1 to 8, and there is the school board amalgamation, in which we're heavily involved in terms of seeing that it works effectively. We're also dealing with the new report card. We're dealing with secondary school reform and with the new professional standards the government is coming out with through the College of Teachers.

There is the milieu, and now we're going to add on a new layer of problems in destabilization. The strangest thing about it is this: What the government is doing is laying a provincial overview and then giving to the school boards the responsibility for implementing it, and so we have a responsibility on the part of the school boards and the teachers and absolutely no authority to affect what should actually happen in the schools in the province, because in actual fact it's the provincial government that will control all the key factors in terms of education.

What are some of those things? The first thing is the regulatory powers, and I am going to be rather succinct because I really do want to get into some questions here. The regulatory powers will reside with the minister and cabinet. What will those regulatory powers involve? They will involve the class size, and I want to correct a few misconceptions and misstatements that have appeared in the press. The teachers of Ontario have never openly bargained for an increase in class size; as a matter of fact, we have always bargained for decreases. For 25 years we have ratcheted down the size of classes. Why was that? Because when the school boards and the teachers sat down, they recognized the need to maintain as much resource as possible and come up with local solutions to staffing situations.

What we're going to do is introduce some number. We don't really know what the number is and we don't know how it's going to be applied, because the regulation gives the government full and complete control in terms of the reporting mechanisms, but the amazing thing about it is we will end up with some arbitrary number which will be the average.

The average is of about as much use as saying one size fits all in terms of clothing. It doesn't work. So my question is, what's going to happen and how are you going to fix that class up in Kenora one day of 40 grade 2s, or that grade 6 class in Atikokan where the government, which has provincial control, turned around and pulled out half a teacher and now that class has half a grade 6 teacher each day of the week, and for the rest of the day those kids are spread out across the school to try to get quality education?

It's going to be very hard to create a provincial picture, but if we use the 25 number with the number of students currently enrolled in the elementary schools of the province, somehow or other there's a shortfall of 24,000 teachers in the elementary system. Currently there are

70,000. The funding at 25 to one, if that's your class size, only generates 46,000 teachers. That's a significant shortfall. I'd like to know where they are coming from, because they are not coming out of the grants. You don't have enough money in those grants currently in the education system to fund that many teachers, so that's a good question that should be posed some time.

We can deal with the class size, because we agree with you that class size is important. It's unfortunate that the former Minister of Education wrote back to a teacher in the fall of this year and said, "After grade 3, it doesn't matter what the size of the class is; it has no impact upon learning." Motive is an important thing in life, and we want to determine what the government's is.

In terms of teaching and non-teaching time, I've heard a great deal about justification and we don't know what we did. Do you know what we did to assure the public about preparation time? We wrote down in our collective agreements what a teacher had to be doing. Because you know what? The trustees were concerned about that too, but then they saw the need for it.

You cut preparation time in the secondary schools by 50% and what you will do is take out 6,000 teachers, but even if that's okay by your standards, what you are going to do is destroy the entire program base in Ontario in the secondary schools, and you will constrict the program base to being a back-to-basics move in the secondary system. What that will mean is the liberal arts will fall by the wayside, because there will be so few teachers. The option component, because of the compression in the secondary, creates another dilemma. We would tend to ask, since we're going through a secondary school reform process, why are you going to change it arbitrarily up front without even looking in terms of the rest of the areas of secondary school reform that are being undertaken by this government? You've got a number of different pieces and suddenly you're plunking this one on the table. It leads us to concerns.

#### 1150

In terms of the non-qualified teachers in our classrooms, I was interested in the exchange that occurred earlier. I would like to bring to your attention pages 29 and 30. These are the exact excerpts from the bill. I certainly have spoken to them across the province, and perhaps you witnessed some of those discussions.

"The Lieutenant Governor in Council is also empowered to make regulations 'designating positions that are not teaching positions and duties that are not teachers' duties and prescribing the minimum qualifications for a designated position or for performing designated duties.'"

That means the minister will decide what's a teaching job and what isn't in every school in the province, and some of those have already been highlighted. You're talking about computers, special education, guidance, early childhood education as opposed to junior kindergarten teachers, senior kindergarten teachers, grade 1, all those things.

If that's not enough, at the bottom of page 29 is the "No presumption" clause in your legislation; it starts off



with the heading "No presumption." It says, "Moreover, Bill 160 also provides that, 'It shall not be presumed that a person is required to be a teacher solely because he or she holds a position that is not designated' as a non-teaching position," and the rest flows. So you can't even call yourself a teacher. You're not allowed to because you can't presume you're a teacher. That's your legislation. I urge you to read it.

Finally, since we often talk about business, I have with me — and I'd be happy to read from it if it's required — the report from the Rockefeller and Carnegie foundations on *What Matters Most: Teaching for America's Future*, which is a report that was given to the President of the United States about charting the course of America in the 21st century in their schools.

Myth number one: Anyone can teach. Myth number two: Teacher preparation is not much use. Myth number three: Teachers don't work hard enough. Myth number four: Tenure is the problem. Myth number five: Unions block reform.

I think it speaks volumes. We want to move ahead. You know what? We want to work with the government to move ahead. We've worked with other governments and created significant changes in education. It wasn't because of the Royal Commission on Learning that we have people in our classrooms. I've had "experts" come into my classroom — doctors, some of them were my graduates — to talk to my students about biology; I've had physics people come in and talk to my students about applications in molecular physics etc. Those are realities we all live.

We want to work with you, if that's your intent. But you know what? The wording in your legislation doesn't do that at all. What it does is destroy the teaching profession in Ontario, because it turns over the powers to the Minister of Education to decide who's going to be a teacher this year and who's not.

If you want to extract money, that's the way you do it. That's why we're going to now move on to finance, because what this bill does is lay the groundwork to take the \$1 billion out, and according to your own people in discussions we had with them, the 25,000 new students every year over the next five years will not be funded in terms of new moneys. What we're going to find is cost efficiencies in the system. That works out, even at the lowest level of funding in North America, somewhere in the range of \$150 million to \$200 million a year. I've got questions about that and I'd like to entertain those, if you have as well.

I have concerns about what's defined as "adequate funding." On page 48 and 49 of our brief, it will be the government — not the Minister of Education but the Minister of Finance — who will decide what the adequate level of funding will be in schools of the province.

One of two things has happened: Either this is a completely economic exercise, and then we're going to define what our education system will look like after somebody sets what the mill rate is going to be and how much money will be generated — and in doing so, I believe the Ministry of Education has given up its leadership in education. I

think that's sad for our province. What should happen is education policy should be established and then the level of adequacy determined. Finally, in terms of funding, we have some concerns about a system out of Queen's Park, if that's where the entire funding equation is going to come out of.

The other fact is on the issue of governance. We believe that the combination of Bill 104 and Bill 160 seriously erodes the governance of the separate schools of the province. We can assure you, Mr Chair, and the rest of the committee here and the government, that we will constitutionally challenge the funding model because it does erode the constitutional rights of separate school ratepayers in the province.

If we're going to say that the governance of the system will be evolved to the school councils of the province, all I have to say to that is all the authority and the power will reside at Queen's Park. The school councils may be able to decide when the hot dog's vendor day is going to occur or when the hot meal is going to occur, but they will not make any major decisions that will affect local education.

I think we have a system that we can still improve upon. We want to work with the government on improving it, but we have to see fundamental changes to Bill 160; otherwise all the goodwill that has ever existed between the teachers, the government and the people of Ontario in terms of working together collaboratively to improve education is going to be seriously undermined.

**The Chair:** Thank you, Mr Jarvis. We start off with the government.

**Mr Tom Froese (St Catharines-Brock):** Thank you for your presentation. I have a problem with some of the comments you made. I've met with teachers and boards in my riding. Obviously this issue has been discussed for a long time, certainly before the last two years that we've been in power. As you know, a lot of studies have been done on education reform and what we should do — not this government; previous governments. Everybody has an opinion about education and how it should be run.

Those studies are documented. In the campaign leading up to the last election, the Liberals had their red book and they said some reforms needed to be done in education as well. The NDP ran, on education reform, on the Royal Commission on Learning. There were a lot of recommendations there as well. The Common Sense Revolution was very open and upfront with the reforms in education. So there's been a lot of debate and a lot of discussion about how reform is to be made.

Also, on some of the reforms that we're implementing, both the former government and the Liberals said some of the same things. Everybody says, and I've heard it from your organization locally, "Yes, changes need to be made." I'm very confused. Your organization criticized previous governments when they brought in their stuff as well, and here we are again.

What I'm trying to understand is, if you don't agree with what's being done, and clearly you've said you don't agree with it, and knowing reform for education has been debated — everybody knows there needs to be less waste,



more teaching and better results — I'm confused about why you don't ever come with some recommendations.

You say you're willing to sit down with the minister, and I don't doubt that at all. As teachers' unions and teachers, I think you legitimately want to make education better. That's not an argument from me. I wouldn't debate that with you at all. I realize you want to do that. But where are your recommendations? All the years this has been studied, I've asked boards of education, I've asked teachers, "Give me something I can take to the minister on your recommendations" — I think I might have a little bit of clout, being the parliamentary assistant to the minister, although my responsibility is colleges and universities — and I don't get anything from either the boards or the teachers in the classroom. Why aren't we getting it from you?

1200

**Mr Jarvis:** Let's dispel a few things. First of all, in the summary conclusions on page 54, item 1 goes (a) to (h), and that's areas of support. Item 2 deals with transition matters. There are issues in here that, if amended, we could support. There are some issues, such as the regulatory powers, that we will never support.

Let's step back as well. Certainly the Catholic teachers of Ontario were in favour of a large number of initiatives, including the College of Teachers. As a matter of fact, we worked with the government, your government and the college, when it came on stream. We worked with the royal commission. We were in favour of the royal commission. We were in favour of destreaming under certain situations. We've been in favour — I made the announcement on behalf of this association — of your new curriculum. We had questions about why you introduced it so late in the year and the level of in-service. That became a major issue, which certainly didn't assist in this government's relationship with the teachers in terms of how it was reported out.

We were in favour of your new report card. I made that announcement on the last day of August with the minister there when the new report card came on stream. We were in favour of that. We have implemented three different new report cards in the past three years. We've had three major curriculum shifts in under five years. We've had eight ministers of education — the change of this one was the eighth — in 10 years. We're willing to work, but the sands shift far too fast, far too often.

But Bill 160 is something that takes change in education to a whole new level because it never allows for public debate ever again on some very major issues, and those are the ones dealing with the regulatory powers.

In the last two years this association has had one hour's worth of meeting time with the Minister of Education, so I would certainly entertain the opportunity to discuss in a meaningful way with the government.

Secondary school reform: a major, major initiative. We agreed with the minister's statements in late June. We agree with the consultation process that's gone on. The difficulty is, in terms of the reform itself, the work group of teachers that are there to assist the minister, along with

universities and college people — and you'd be aware of that because of your portfolio — we never have the whole information.

When you announced the new apprenticeship program, we had never heard of it. That's a major issue in secondary school reform, because we believe in apprenticeships. We think we should come out with people with correct qualifications to enter the workforce. But there's a problem when you're left out of the loop and you're brought in at the last moment, or too late down the process to have any influence. It undermines the credibility.

I would put that to you: We do want to work with you. If you want some very relevant, important improvements to education, we can sit down and do that. We can bring some of the greatest expertise that exists, along with our colleagues probably from every other affiliate, that exists in Ontario. We can do that. We can turn this into the best system of education in the world, and that wouldn't be too hard because we've got a good standard to start from.

**Mr Cordiano:** Thank you for your presentation. I wanted to ask you, and I'm quite curious about this, why it is that under Bill 160 only 28% of the school boards are being amalgamated, so why is it that 100% of the boards are included for amalgamation?

**Mr Jarvis:** That's an interesting question. It's one that we posed to this very same committee on Bill 136 and it was amended. The bill was amended because the aim of the government under Bill 136 was not to create the opening up of agreements or to call into question the agreements that were not being altered by the formation of amalgamations, either municipal, hospital or education sector. But for the teachers of Ontario, we will open them all.

The only thing that I can surmise from that is this: Within the context of our collective agreements are issues that deal with class size, which deal with preparation time and which deal with the need for qualified teachers and teaching experts in the classrooms of Ontario. They are in there, because not only we believed it was important but the trustees did, and so did the local ratepayers, because they kept voting some of those people back into office, some of the people who sit in your government.

For that reason, I only have one question to the government: Why? Why do you have to open them all up? If it's not for the money, then what's the reason? Please dispel, either today, tomorrow or some time in this hearing process, which one is incorrect.

**Mr Cordiano:** It's too bad we don't have the minister here before us today to answer that question. I turn it over to my colleague.

**Mr Jarvis:** I certainly will ask him this afternoon.

**Mrs McLeod:** I think we know —

**Ms Lankin:** Maybe you can come back and tell us the answer because they won't let us invite the minister.

**The Chair:** Mrs McLeod has the floor.

**Mrs McLeod:** I think we know the answer. You cannot think of any reason why every collective agreement has to be opened on January 1 and a new agreement has to be negotiated by September 1, where every contract is



essentially being abrogated by the government through this bill and where the renegotiations are based on not being able to look at working conditions, class size, teaching time with students. The government wants to exercise the power that it's giving itself under Bill 160. If they didn't want to exercise the powers, why would they give themselves the powers? Quite clearly, that's a way to cut costs, by cutting teachers. I think your statement about even a funding formula that has an average of 25 to 1 is still going to lead to a severe cut in the numbers of teachers we have is quite significant.

Let me just ask you — I think there is only time probably for one other question. The constitutional challenge: The government I think believes it has answered the concern by saying that even though the government is going to levy the educational taxes, the taxes that are collected locally can be designated. Do you feel that responds to the constitutional issue?

**Mr Jarvis:** I'll start off the response and then I will allow Claire an opportunity to touch on that issue. I'd like to just touch upon your regulatory powers. Those powers are not limited in scope. The preparation time issue doesn't deal just with secondary; it just gives outright power over everything dealing with preparation time and unassigned time to the Minister of Education. There is no restriction in this, despite public pronouncements on everybody's part.

In terms of the protections in terms of the funding issue, absolutely not. The fact that somebody can distribute some moneys which are going to be lumped into particular envelopes, which they are not going to be able to move out of unless they get the government or the Education Improvement Commission, which is the right hand of the government now in terms of implementing educational reform — the former Minister of Education under another government really didn't leave the post, it seems.

The issue of the fact that we're going to end up with a scenario whereby the government will determine all the priorities in terms of spending and raising of moneys, I don't see how anyone can govern beyond that other than to say, "Yes, we will agree with that allocation and put the money there." I'll leave the remainder of that to Claire.

**Mr Claire Ross:** Very briefly, the right to tax is not a frivolous right. The right to tax, which is guaranteed under section 93, is rooted in the fact that from the right to tax flows the right to govern the system; the right to manage, the right to make significant decisions at the local level.

What appears to be happening is that the constitutional embrace around the separate schools, their right to govern, has been shattered. It has been shattered because we have the transfer of the right to tax and thereby the right to govern. It is now vested in Queen's Park. There is no question in our minds that the power of finance, the power of money, can be significantly used to mirror-image the boards, and in the mirror-imaging of the boards, I suspect, together with the demise of the trustees — and I think most of us know the Education Improvement Commission is embarking around this province to try to define what the

role of the trustee will be under Bill 104 and Bill 160. Some of us would submit that this is mission impossible.

With the demise of our trustees and with the vesting of authority in Queen's Park, you have I think, preparatory, the end of the separate school system. Thus it is that my president has said very strongly that we will challenge constitutionally to the Supreme Court of Canada this direction in which the government is moving.

**1210**

**Mr Wildman:** Thank you very much for your presentation. I have two questions. The first one is around prep time and the regulatory power that you've spoken so strongly about, and the second one is on your meeting this afternoon.

On the first issue, the previous minister himself admitted that there would be about 4,200, he said, fewer teachers in the province because of the changes to prep time. He admitted publicly that it was about getting rid of teachers. Other estimates are 6,000, perhaps as high as 10,000, depending on how the formula works. Why would a government want to get rid of so many teachers in the province if it is truly interested in improving the quality of education as per the title of this bill?

**Mr Jarvis:** If your goal is to take \$1 billion out of education, and let's do the math on this one, you lose one out of every seven secondary teachers in Ontario by cutting prep time.

**Interjection:** How much?

**Mr Jarvis:** One out of seven. All you have to do is this: Draw eight little squares and colour in six of them. You call one prep time and you call the other one supervision, which isn't prep time, it's other assigned duties. Set those up for seven different teachers. Take one of the teaching periods and plunk it on the first teacher from the seventh one. Take the second one on the seventh one, give it to the second teacher and so on. You know what? When you get to that seventh teacher, they have no more teaching schedule. All they have are supervision duties and they then get added into the other people and now you've lost one out of every seven teachers. That's a 15% reduction.

I'll leave it to my colleagues in AFO to discuss what the impact is on their system. I know the impact on our small schools will mean we will completely collapse our system in some of our smaller areas.

That 15% reduction means that —

**Mr Wildman:** You won't be able to provide the options.

**Mr Jarvis:** That's the key. You lose experts every time you take out a teacher.

One of the things that has to be rationalized in this is, first and foremost, what do you want secondary school education to look like in Ontario? If we want to maintain a broad program base, with our technologies, with the visual arts programs, all of the things that generate thought, then we're going to have to ensure that we have staff in place. If you don't, then you can extract until the cows come home.

**Mr Wildman:** My other question was on the meeting this afternoon. I know there's a new minister and he had to

be briefed. I think it's unfortunate that he didn't choose to meet at least in a preliminary way with the teachers' federations last week. Have you had any indication from the minister, his political staff or the ministry bureaucracy that he is going to propose to you significant changes in Bill 160 as per the positive suggestions you make beginning on page 54 in your brief?

**Mr Jarvis:** I've had the opportunity to read the media, which is one way we can discuss between each other, and I'm aware of some of the ideas there, and that's fine. We both do it, both sides, so we both play the game. But I'm looking at the aspect of the parliamentary assistant for the minister, and the parliamentary assistant said the comments this morning are similar to the minister's this afternoon. Basically it's: "This is what's here. This is what you've got." If that's the case, then I hold very little hope for what's going to occur this afternoon.

To that end, I just have to say this: We will not be silent on this. We will not be silent on Bill 160. We understand the tremendous implications of the decisions that we may make, either this afternoon or very shortly in the near future. It's not an easy one for anybody, but I will tell you right now, the teachers will do what is required to try to influence the government, because we didn't have the upfront stuff in terms of influencing the formulation of the bill. We got it just prior to its enactment and afterwards. Had we had the same opportunity for input as perhaps other groups did who are involved in the educational community, we might have had a bill that we could all agree on.

**The Chair:** We have about a minute, Ms Lankin.

**Ms Lankin:** Very briefly then, that's a sombre note to conclude on and we are faced with being on the brink of a potential crisis here.

It seems to me the government has been attempting to change their public positioning on this by saying: "Maybe it won't be a billion dollars that we take out," "Maybe it won't be a 50% cut in prep time" or "Maybe we won't put non-certified people in as the head of class." It's all getting very murky. It seems to me that all of those changes, and you've made this point, are directly related to fiscally driven decisions within the government. It's about money.

Many people have called for the budget and the funding formula to be put on the table. Would we see the teachers continue services at this point in time if the government was to stand down this bill, put it to the side, bring the funding formula and the budget forward and allow us to have a consultation of all of the items together? Would that in the short term at least avert the crisis that we are on the brink of experiencing?

**Mr Jarvis:** As you've stated, if Bill 160 was set aside, we took a look at the funding formula and we found out what the true goal of the government was, I think it would go a long way and potentially allow us to have an intelligent discussion, and so I could say yes to that on the part of the Catholic teachers of Ontario.

**The Chair:** Mr Jarvis and gentlemen, thank you very much for your thoughtful presentation.

**Mr Jarvis:** I thank you again. I realize that you didn't expect the warmest welcome from us, but I thank you for allowing us the opportunity.

**The Chair:** Good luck this afternoon.

**Mr Jarvis:** Thank you.

#### SHEILA MORRISON

**The Chair:** Our next presenter is Sheila Morrison. Members have received a copy of Ms Morrison's presentation, passed out earlier, first thing this morning.

**Mr Wildman:** May we leave our material here, Chair?

**The Chair:** Yes. The door will be locked, I understand. Welcome, Ms Morrison. We have a very short period of time for you, so I'd ask you to proceed.

**Ms Sheila Morrison:** I talk faster than most of the people you've listening to. I think that might be a change for you. I must say I appreciate the opportunity. This is the first government in 20 years, and I've been badgering them all, that has attempted to improve the school system in response to parents' concerns. There are a lot of parents out there concerned. There are 650 private schools, all of which certainly are not of the elite Upper Canada College vintage.

The other thing — and this is not in my brief so you better listen to me because some of the stuff I've just sort of thrown in, having listened now for the last hour — the students are never mentioned. The concerns of the students are not mentioned at all. All they're talking about are their own concerns, which I think is not really proper for a group of people who say they're such caring individuals.

The first issue that I'm going to deal with is limiting class size. The special education class sizes have been mandated for at least 15 years — more than that, 20 years. So why everybody's fussing suddenly about limiting class size — I think it's just a crock. This has been sort of foisted on gullible parents all these years: "Oh, the classes are too big. They won't learn anything." Well, they would if they were teaching, but that's the problem. They haven't been teaching properly. There hasn't been a specific curriculum in this province for 20 years. The last four or five has been this wishy-washy, "As long as they're good citizens and they're not bigoted," and all this sort of rubbish. They're encouraged to be trendy, to act as facilitators rather than as teachers, to allow students to make their own decisions regarding what, how and if they want to do specific subjects.

The resulting chaos of course meant that any class size is difficult to handle. Since the lack of discipline was the result of these experiments, the teachers were hard put to do much effective teaching even when they tried. To be fair, few teachers got any support from the principals or vice-principals when they did try to discipline, so many of them gave up trying. It was much easier to blame the parents for not making their offspring behave. I was in the public system for 30 years and I know exactly the problems that you had with some principals if you did try to do any disciplining.



There's also the additional complication of the makeup of the class. Due to the nefarious policy of social promotion, wherein students are promoted on size and age and whether they take their vitamins, never on academic progress or accomplishment — this is the part that has been so absolutely appalling and the results have been just ghastly in the schools and on our children. I think this is my concern: The children have been shortchanged over the years with these trendy things that have been going on.

For instance, a grade 5 teacher could have a range of students with skill levels from grade 1 to grade 7. What does even the most dedicated teacher do? Plead for an aide? Oh, no, that's too expensive. Yell for help? You can't be heard because the other grade 4 teachers and all the rest of them are all yelling for help too. Call in special education? Obviously that hasn't worked because surely the grade 4 teachers are also yelling for help in special education. Use some prep time to tutor students? Maybe. Suggest private tutoring to parents? Probably.

They do withdraw students for extra help, but this defeats its purpose as it contributes to the pupils' already low self-esteem because every kid in the class knows where he's going and why. The kid himself knows too. This doesn't help at all.

**1220**

The added problem in regular classes is a result of the social engineers who insist children must be made aware of their rights. If you tell them young enough, and they do, by the time they arrive in high school many of them are out of hand and disruptive in class. Again, they are making their own decisions.

Of course, they are so cognizant of the fact that their skills are weak and any attention is better than none. If they did drop out, they could hopefully end up as successful as Mr Snobelen. I think it's a shame that nobody pointed that out as often as they could have. The thing that I'm trying to get across here is that the class size issue, if the teachers were coming along and saying, "These are the reasons why we want the class sizes to be limited," or whatever, they would be getting a lot more support than they are just running around yelling and saying, "Oh, they're going to make them smaller and smaller and smaller." There's nothing wrong with small class sizes of course, but you can do it with larger. You have to use common sense.

The other thing is you have to worry about parents, with all this so-called stuff going on. They've got three kids; they may say it's time for them to take out the garbage, but the child refuses. He's making his own decisions. He's been told he's supposed to by the schools. Multiply that by three and you realize how difficult it is for parents. They too have been brainwashed into thinking that if they discipline their offspring, said offspring will be traumatized and scarred for life.

So there is more to the issue of limiting class size than meets the eye. From a practical point of view, depending on where you live in the province, the mobility of the population is not controllable. Almost assuredly it has to be left to the judgement and decision of the principal.

Where do you put seven kids who land in mid-October? You haven't got time to build another school. You have to put them in somebody's class and if he has a bigger class than you'd like, well, that's tough beans.

However, there is light at the end of the tunnel because of this government. With the advent of a specific curriculum and goals for each grade as introduced in June, there should be some accountability. This last group were weeping and wailing because the teachers had a curriculum. They ought to be thankful. When teachers finally know exactly what to do and are supported and encouraged, standards are bound to rise. Putting cheap, cheap, cheap proven standardized tests in place will also contribute to success. The money that we have spent on testing this last while is unconscionable.

Mind you, what is going to be done about the poor lambs currently floundering below grade level now in the system is another massive problem to be faced. However, once the revised structured system is in place it will cut special education classes by at least 75%.

Specialists in the classroom, not qualified teachers — they started bleating about that. You know, there have been teacher aides in the classroom for the last 20 years. They got paid. Has anybody mentioned that? They were hardly specialists, they were unqualified. They're somebody's mother. I don't object to this at all, but I don't see any reason why we have to suddenly say, "Unqualified people in the classroom? Heaven forbid."

They used to have itinerant music and art teachers go around. When I was teaching in North York, for instance, they had itinerant music teachers who came to the school one day a week and went to all the classes and art teachers who came around and gave you some help. I think that was a very sensible idea. I don't see why you have to have a full-time art teacher and a full-time music teacher in every school. Some of the teachers do it because they like it and it was one of the things they did. But these also were professionals in their spare time, not their prep time.

As for librarians, why do they have to be teachers? We have librarians all over the countryside and they're not teachers. They do quite a commendable job I think. I also don't know how schools justify secretaries and full-time principals who don't teach. Except in September and the end of the year, much of the work done by the secretaries is unnecessary paperwork and jobs for the teachers.

I know because I was a PA, which was a principal's assistant, at one time in a 17-room school, 650 students. I taught grade 8. The principal taught my class for one hour, from 10:30 till noon. There was 15 minutes, recess. I did all the office work, did all the ordering of all the supplies for the janitor and the art and all that sort of stuff, and we didn't have a computer. We had a telephone and me. Also, mind you, we discouraged parents for just picking up the phone and calling unless there was an emergency.

Preparation time: Until 1970 preparation and marking, remedial help and detentions were done after —

**The Chair:** Ms Morrison, sorry, we only have about one minute left. You've been ad-libbing —

**Ms Morrison:** Listen, that's fine. I agree. I appreciate your letting me speak. But on the other hand, the first people spoke for one hour, and I think I'm entitled to this. I have about five minutes more presentation.

**The Chair:** I'm sorry, I cannot permit that. I am bound by the rules of this committee and we have allocated only 10 minutes. I'm pre-warning you that we're talking through your last minute at this moment, so I'd ask you to wind it up. We'll finish the rest of your written report, which I'm doing right now.

**Ms Morrison:** I'm insulted.

**The Chair:** I was hoping to get the next listener on, from the parent council, because they've been waiting all morning. Were you not told, Ms Morrison, that you had 10 minutes?

**Ms Morrison:** I was, but I was here at 11:30. I was here at 11 o'clock, as a matter of fact, and I have been waiting for over an hour. The rules should be the same for everyone, I would think.

**The Chair:** Yes, organizations were provided with 30 minutes, but individuals —

**Ms Morrison:** Certainly it was more than 30 minutes you gave the first people. I was here and they were still going.

**The Chair:** Which first people? I can assure you no presenter received more than 30 minutes this morning.

**Mrs McLeod:** Mr Chair, concerning the organizations, as you know, if you were on the minister's list you received 30 minutes, if you're not on the minister's list —

**The Chair:** Well, I believe they are.

**Ms Morrison:** I could have finished in the time you're arguing. I could have finished it.

**Mr Wildman:** Why don't we stop arguing and let Ms Morrison finish.

**The Chair:** We have two more minutes then, Ms Morrison.

**Ms Morrison:** Okay. In 1970 everyone else did their preparation time after school. The guidance counsellors nowadays — this is a pet peeve of mine, because when I was teaching kids were allowed to go out of the class, go to the guidance counsellor, make an appointment and not tell the teacher. The guidance counsellor should be expected to do their counselling, such as it is, after school.

The length of the school day and the school year isn't going to make any difference at all to anybody unless they start doing what they are supposed to be doing in school, which is teaching.

Eliminating the semester system is another thing. The ministry actually did a study that proved it was not successful and not beneficial to children but it was never released. Those findings were given to me by one of my school inspectors.

Parent councils: I don't think parent councils are going to be the panacea that they are supposed to be because it's going to be a glorified Home and School. They're all complaining now about this sort of thing. Anyway, I am here to support what the government is doing and I think the parent councils, one of the things they do — we should have enough faith in the principals we appoint that they

don't have to be helped by parents or people who are unqualified. The people who necessarily get on them are not necessarily the best people to do it. Most people are busy making a living. But the principals should be able to help the teachers identify incompetence when they see it and hope for the best.

This government has done some very good things and Bill 60 is a giant step in the right direction. They must still cope with ministry bureaucrats, who are mired in trends and fads and flowery language and educationese and who are having difficulty facing the reality of what is actually out there in the schools and in real life. The government is batting 1,000 so far. All they have to do is keep it up.

**The Chair:** Thank you very much, Ms Morrison, for your excellent presentation. The time is now 12:30. I apologize to the North York Parent Assembly and Ms Miller, but the last two this morning will be leading us off this afternoon, starting at 1 o'clock.

We are adjourned. The room will be locked, so you can leave your papers here if you wish.

*The committee recessed from 1229 to 1302.*

**The Chair:** Good afternoon, ladies and gentlemen. It now being shortly after 1 o'clock, I see a quorum and I'd convene the committee.

#### NORTH YORK PARENT ASSEMBLY

**The Chair:** Our first presentation is the North York Parent Assembly, Shelley Carroll. Is Ms Carroll present? Ms Carroll, welcome. I apologize for putting you over to the afternoon. You've been sitting here waiting patiently.

**Mr Wildman:** It was entirely my fault.

**The Chair:** We have 10 minutes allotted to your presentation, and I'd ask you to proceed.

**Ms Shelley Carroll:** Thank you, Mr Wildman, for saying it was entirely your fault. I think it was.

Good afternoon, Mr Chair and members of the committee. I have a brief presentation. I haven't gone section by section through Bill 160 for you because I knew the opposition members of this committee would amply explain my objections section by section of the bill, and they have. I was very interested to listen to the presentations this morning from Ms McLeod and Mr Wildman.

I'm going to use my time in this public forum to extend my compliments to the Ministry of Education and Training. They could not have picked a better time to introduce a bill that removes parents and all of us in this room from partnership in the education system.

I'm here because I spend countless hours in North York encouraging parents to take part in their kids' education and to network with other parents. I can tell you that September is the ideal month to introduce a bill that gives the cabinet absolute and permanent power to close schools or to abolish boards and seize their reserve funds. Most parents haven't the time to read a 262-page document that is written in legalese in the month of September.

Even the most loving parents breathe a sigh of relief when they drop the kids at school after Labour Day, so September is the perfect time to announce that schools



may take them back even earlier. Urban parents smile at the suggestion. They smile until they realize that it also gives any cabinet in power the ability to contract the school year or to configure it however they like. The parents may not be familiar with the tale of the Calgary mother who has three elementary school children on three different vacation schedules due to year-round schooling and has given up her job because of it. The cabinet will have the power to put me in a similar situation.

By the end of the last school year, I was extremely proud of the parents in my North York community and their attempts to learn about Bill 104 and then to oppose it. Many families sacrificed large blocks of their time rallying their neighbours around this issue. The cabinet chose to ignore them. Exhausted and demoralized, they decided over the summer to try to get back to the job of raising their children. So this September they were at swimming or Scouts or Girl Guides registration when the Minister of Education and Training introduced a bill that gives the cabinet the power to wipe out whole programs and to import non-teachers to the classroom.

If I may insert, I think the last speaker should be a fly on the wall when this ministry irresponsibly includes my autistic daughter in a class of 25 and then sends her to a library where a non-qualified librarian tries to engage her and the 24 other students in a group activity. I think she would find it very interesting.

I can tell the authors of this bill that they picked an excellent smokescreen in teacher bargaining issues. It has helped them in two ways. Reporting on the removal of class size, preparation time and professional development from the collective bargaining process has eaten up all of the media space. They have driven the teachers to the brink of an unprecedented job action, and, let's face it, nothing sells more papers than the daily strike threat updates. But the second benefit of this smokescreen is that they have picked issues that make this bill very difficult to talk about in a local school advisory council.

Parents are just beginning to feel comfortable about the current form of parental involvement that includes teachers and non-teachers in the process. Principals and trustees are just beginning to find ways to help parents work through the weightier topics included in a school council mandate, and now you have thrown essential collective bargaining issues right on the school advisory council table. But once again I can be proud of my community. At every school council that I have attended in nine different schools in North York since Bill 160 was introduced in September, we have worked through all of the issues, and the parents at those councils have grasped the truly nasty implications of this bill. In view of the fact that they cannot organize fast enough to take all parents and their children out on strike, they have agreed to support any teacher attempt to kill this bill, including province-wide job actions.

At each meeting that I attended, council executives and other members signed these requests that you see in this pile in front of me to speak on behalf of local parents at these public hearings. I am happy as chair of the parent

assembly to come here and speak on their behalf but, make no mistake, I am speaking on behalf of many parents. They are the users of public education. They should be here. They would speak much more eloquently than home schoolers and home builders.

These people are ready and willing to engage in meaningful consultation, and we're not talking about the totally inadequate and nonrepresentative form of consultation that has taken place with the Education Improvement Commission. To take 30 Metro parents — and I should say they were chosen basically on the basis of who was around town on July 7 — ask them to express their views on class size, professional development, preparation time and the length and structure of the school day and the school year, and then to give them only one hour and 15 minutes to express themselves on these issues on behalf of the parents of 300,000 students, has to be the most insulting approach ever taken towards parents in modern history. We are ready and willing to consult in an improved forum.

If this government chooses to proceed with Bill 160 in any form, parents and children will join the teachers and their union supporters on picket lines. All across our community, parents are organizing babysitting co-ops and stocking up on coffee to deliver to the picketers who care about our children's future.

#### 1310

Every MPP in this room is threatened by this bill. If education is administered solely by regulation and not legislation, no opposition member will ever again have the opportunity to debate the issues that most affect my family and the families of the members of the North York Parent Assembly. No Progressive Conservative caucus member will ever have any more power over education than my locally elected school board trustee. Like her, you will no longer be able to properly represent your constituents. Perhaps, as happened to my trustee this year, someone in power may suggest that the change to your role should be reflected in your remuneration. I hope not.

I can guarantee that Bill 160 will be a major provincial election issue, so I suggest that everyone in this room, every member of this committee and the public gallery, should go out and join teachers in their struggle to kill the entire Bill 160. It seems that teachers are the only group that has the ear of the Minister of Education this afternoon, and I include in that group yourselves.

**The Chair:** We have one minute per caucus.

**Mrs McLeod:** I appreciate the effort that you and your fellow parents have made to not only be involved at your school, but to continue to be involved in the political aspects of education, which I know you hadn't counted on getting involved in quite so heavily when you took on the job. I know it would be a lot easier not to have to take that on.

What I hear from parent councils at home is that one of their frustrations with trying to respond to Bill 160 is that there's actually nothing there in terms of the specifics they would like to be debating around the school council table. As you've noted, and I can't expand on that, it's this total control that is the frightening part.



If we think for a moment that one of the ultimate goals, at least one of the potential uses of this power, is for the government to turn over the management to either the home schoolers or the school councils or whatever other alternatives exist in the name of parent choice, how do you as a parent feel about that?

**Ms Carroll:** I can speak for myself and I truly can speak on behalf of many school advisory councils in North York. The parents are not ready for it, pure and simple. I'm not sure they ever will be. I can tell you that I personally will never be ready for it. It's enough just to make them come to school advisory councils so they can really get involved in their child's education in the local setting. To ask them to begin to take part in the site-based management that this bill implies is just unrealistic, and I'll go as far as to say ridiculous. They simply won't do it.

**The Chair:** Thank you, Ms Carroll. We have to move on.

**Ms Marilyn Churley (Riverdale):** Thank you for all the work you've been doing on behalf of the parents in North York and across Metro. What we're hearing is that the funding formula — the lack thereof — and sweeping regulatory powers, therefore lack of democratic control of our schools, are the two major problems here. You know about the meeting this afternoon between the new minister and the teachers. I'm wondering: What would you like to see come out of that meeting this afternoon?

**Ms Carroll:** If the minister is listening to the teachers, he will understand that they have met with the same challenge we did. We sat down as parents with Bill 160 and thought, "Maybe we can make some suggestions as to what we can live with if they're going to make amendments." Dave Cooke told us in a consultation with the EIC on Thursday, "Just jot down the amendments you'd like to see." But they fall like dominoes, and you really can't do anything but go back to the drawing board when a parent reads that. I have a feeling that the teachers may end up having to say the same thing.

**The Chair:** Mr Newman, you have one minute.

**Mr Newman:** I appreciate you coming before the committee today. I just had a couple of comments with respect to your reference to home schoolers and home builders. One thing we can all learn from home schoolers is to ask them why they chose home schooling over the public system. Maybe we can learn from them what their thought was wrong with the system, why they pulled their children out of the system. I think there's some relevance in having them there.

With home builders, part of the bill deals with education development charges, so I think they too have a responsibility to appear before the committee, as do parents, teachers, principals and taxpayers. That's just something I wanted to put on the record.

Also, you mentioned about joining teachers in asking for the withdrawal of Bill 160. Earlier today we had the Ontario English Catholic Teachers' Association in. There are sections of the bill they do agree with. It's not "totally withdraw"; they're saying there are parts they do agree with. I just wanted to mention that.

**Ms Carroll:** May I respond to Mr Newman's comments briefly?

**The Chair:** I wish you could, but unfortunately we have used your allotted time.

**Ms Carroll:** If I may just respond to one point. He made several; I'm only asking to respond to one.

**The Chair:** Ms Carroll, you chose to use the majority of your time, unfortunately or fortunately, on your presentation. That's fair; that's your choice. That leaves very little time for questions from anyone. Thank you very much.

## MARIA MILLER

**The Chair:** Our next presenter is Maria Miller. Welcome, Ms Miller. I ask you to proceed.

**Mrs Maria Miller:** My name is Maria Miller. I'm a parent at Franklin School in Toronto. I'm speaking here as an individual, but I'm also a member of the Metro Parent Network and the East End Parent Network.

I appreciate the comments that have been made today on this issue. It's a very serious issue. As I sat down to think about this presentation, I asked myself what I could possibly say, as merely a parent, that would make a difference as far as this bill is concerned. I decided that perhaps if I looked at the bill carefully enough, I might find some amendments I could suggest be changed, and that might be a constructive way to make my contribution.

How could Bill 160, the bill to improve the quality of education in Ontario, be changed for the better? I found one clause near the beginning, on page 13, that I think could be removed. It doesn't really have too much to do with improving education quality in this province, so perhaps it's not really needed. It reads, "The minister may make regulations prescribing any property, work, undertaking or matter for the purposes of the definition of 'permanent improvement' in subsection (1)."

I think it's reasonable — don't you? — to ask the minister to think ahead a bit on this one and figure out what regulations he would really like to change and incorporate that information in the bill for us. This could make the bill a little clearer for the people who would like to know what it's about. It seems odd that these particulars weren't included in the first place, but I guess the minister didn't want the bill to be too boring or straightforward. If the government could take out this one little clause or change it to be a little more clear, it would certainly improve the bill.

Of course, I should mention there's a similar clause on page 33 which starts, "The Lieutenant Governor in Council may make regulations respecting any matter...." The same thing could apply in this case.

Anyway, can you tell me why the government is in such a hurry? Why can't it just take the time to write down right in the bill what it wants to do, plain and simple? I think the people of Ontario would appreciate that. They would understand if the government took a little extra time to think this part through from the beginning and write it all down in the legislation. After all, we don't want to



rush, do we? Education is very important for the people of this province, and this bill is supposed to improve our education system a great deal. As a parent and a taxpayer, I think it would be a good idea to remove this clause from Bill 160 or take the time to add a whole lot more of something by way of explanation.

You probably didn't know this if you read the bill like I did, but I have to admit I did find a few other clauses of a similar nature — you probably know about it by now because other speakers have been referring to them — which say the minister or the cabinet can make different regulations about a bunch of different things having to do with education. If a few of those clauses could just be taken out, I think it could possibly improve the bill quite a bit.

1320

I counted up the clauses for you. They are fairly easy to spot if you check the margins for references to regulations or powers of the minister, I found out, not being a lawyer by training. Just to be clear, I want you to know I didn't count the clauses which said that the minister could set guidelines or standards at his will or appoint inspectors or auditors or commissioners and other people and decide what they would be paid, and that he has the right to approve financial transactions by all the boards in Ontario. I didn't include those. Even so, it was quite surprising; in fact, it was very surprising. There were at least as many as 186 of those little clauses about making regulations right there in the bill. There might be more, allowing for the fact that I could have missed some. Some 180 clauses saying the government can make regulations. That's quite a lot: at least 25 pages of the 200-pages-plus bill.

Seeing as there are so many more of these clauses than we all expected, I'm guessing that you might not really be too keen to take them all out. After all, you wouldn't want to look like something is missing. So I think it would be okay — I hope it's not asking too much — if you replace all those little clauses with the details of what regulations the government is planning to make. At least it would be very good PR. It would give the minister a chance to show off all the ways he plans to improve education in this province. Parents, even teachers, could feel very enthusiastic, I'm sure, once they see the detail showing how this government is going to make education so much better for our children.

Of course, in fairness, we should discuss some of the downsides to including these details in your bill. For one thing, I suspect it would make the bill quite a bit heavier. I know you're on an economy drive and want to cut education spending, but still I think the extra printing costs would be worth it. When you add in all the extra details, you might add 100 pages or so. I think it would be worth it. You want the people of Ontario to believe that Bill 160 will make the education system much better. Wouldn't it be easier to spell out the changes right then and there? It would still read pretty well if you went ahead and took some of the guesswork out of it.

Of course, if you do decide to add the details to the bill, you would have to worry a bit about whether all the

changes you're proposing for education really could be considered improvements. If there is any question — if you're really intending to cut funding or programming or teachers, for example — then the cat would be out of the bag, wouldn't it? Even the media would know what you are up to and there would be trouble.

We must not forget that Bill 160 is really a very good bill; it just needs a few changes. I've heard Mr Harris and the minister say so quite often on TV, even though I have to wonder sometimes why they never look at the camera while they are saying it. "Bill 160 will improve the quality of education in Ontario." Wow. Sounds great. Go for it. Who could argue with that? Mind you, it seems a little funny that that's all the Premier and the minister ever seem to say about the bill. Oh yes, the other day the minister said he might cut teachers' prep time a little this year. I think he means if the teachers are nice and don't go out on strike.

When you come to think about it, what is so good about Bill 160 anyway? I mean, all those pesky little regulations and clauses in the bill, what do they really mean anyway? Here's what they mean: They mean it's the minister's sandbox and he and his friends get to make all the rules, kind of like the school yard bully. Kind of undemocratic, if you ask me.

There are some reasons why it might not be the best thing in the world to go ahead and plow along with Bill 160. We know the bill concentrates power in the hands of the minister and the cabinet. Over the years we have, believe it or not, I think, learned a thing or two about education. We've learned that the education system works well when it has a stable base of funding and policies and procedures which, once established as worthwhile, remain in place from year to year, changing slowly to respond to changing times. Now Bill 160 says the minister and the cabinet get to make all the rules and they can change the rules however and whenever they like without consulting anyone and without telling anyone, not even the backbenchers.

It means that the decisions in education will henceforth depend on the whim of a particular provincial cabinet and all the cabinets to follow, regardless of whether or not the Minister of Education or anyone else in the government knows or cares anything at all about educating children. Decisions henceforth will be subject to the political breezes that blow from moment to moment. Funding could be up one day and down the next, especially if a school board has any of its own ideas about how its local education dollar should be spent.

Stability is important in building an education system, and children need stability in their environment in order to grow properly. The truth is, Bill 160, with all its regulations yet to be made, makes stability for Ontario's education system a thing of the past.

There are other reasons why Bill 160 just might not be such a good idea. There is the basic principle of democracy that has proved time and again that the wisdom of the many is better than the wisdom of the few.

The bill might make the government look bad. Who are we going to blame when things go wrong in our children's schools next year?

A fourth and not a final reason that Bill 160 might not be such a good idea is that it will alienate parents and students and just about everyone else who has anything to do with the education system. This bill does not make this education system more accountable. It does nothing to improve communication between parents and the ones who are running the education system.

I don't know if you noticed, but parents can't shout enough to be heard all the way here at Queen's Park. Did you know the government phones don't work too well for incoming calls? At least nobody answers. When we leave a message on voice mail, no one calls back. Our letters, faxes and e-mails don't reach the ministry either, it seems. I'm pretty sure they don't, because we never get any replies. In fact, you'd better tell us now while we're here: Do you want to come down to the school and have a meeting next year if there is not enough heat in the winter, or should we come up here? Or would you prefer that we just go ahead call the gas company ourselves? Can we still tell them to send you the bill?

**The Chair:** Excuse me, Mrs Miller. I've let you go one minute over your time. Just wrap it up, please.

**Mrs Miller:** Thank you. I guess I have to get back on topic and wrap it up.

I don't think there are going to be any amendments made to this bill because the intention of the bill is to concentrate all the power of decision-making with the minister and the cabinet. Unless it is rewritten completely, we can't make amendments. That's the basic tenet of the bill, and that has to be changed. The best thing would be to can the bill. Can you do it?

**The Chair:** There is no time left for questions. Thank you very much for your attendance here today and your presentation.

#### ORGANIZATION FOR QUALITY EDUCATION

**The Chair:** Our next presentation is the Organization for Quality Education. I believe you have a written submission. Mr John Bachmann is the president and Ted Johnson is the director. Welcome, gentlemen.

**Mr John Bachmann:** Thank you. We very much appreciate the opportunity of addressing the committee today.

I have to start with some candid comments. The Organization for Quality Education has very mixed feelings about the general thrust and specific features of Bill 160. That's because OQE was founded to promote improved learning results in Ontario schools. We have always seen decentralized decision-making as an important facilitator in this process. We would very much like to see issues such as class size and prep time decided at the local community level by governing school councils. However, such school councils don't exist as yet, so we have to deal with today's reality. Bill 160 is a bill to deal with today's

reality, and so we support most of its components as necessary short-term evils.

In the following brief presentation we will comment on a general concern about Bill 160 and address just three of the items that are in it. We didn't feel there was any point to rolling through all of them, so we've just focused on three.

In general, though, there has been a lot of criticism of Bill 160 on the grounds that it removes from local control issues such as prep time and instructional hours. The reality is that these and other issues, especially wage negotiations, have not in reality been under local control for some time.

Wage settlements reached in negotiations between local boards and bargaining agents for provincial teachers' federations in the 1970s, 1980s and the very early 1990s were certainly not under control. It was only when the provincial government — and remember this was an NDP government; it wasn't a Tory agenda — wrestled control of wages from the school boards with the social contract that taxpayers' ability to pay became a factor for the first time in negotiations. OQE would like to see future legislation take it even further by removing bargaining completely from the board level to the provincial level where it belongs.

#### 1330

Local boards have not been accountable on the key issues of learning outcomes. There are many things we're trying to accomplish in our schools, but certainly one of them has got to be preparing our children to be functioning, competent citizens and that includes being able to read, write and calculate. Sure there are a lot of other issues, but as a bare-bones, can't we insist on that?

When you look at what school boards have been doing in this area, they haven't been accountable. They have toed the teacher federation line that standardized testing is not only unnecessary but somehow destructive, that international comparisons are invalid, that publishing test results is not fair to teachers, but is anybody asking the question, what's fair to the students?

Local boards have, with the infrequent exception of collective bargaining issues, restricted the flow of information to parents to materials that are supportive of the federations' agendas. I have experienced this personally. I once tried to get an information meeting at the Peel board that involved just telling parents in Peel what the function of the Ontario Parent Council was and how they could work with it and benefit from it. I was told I was too political, and yet teachers' federation propaganda goes out regularly. That was just happening this past week, with speeches that were made at Maple Leaf Gardens being distributed to parents but certainly nothing on the other side. There is not local control. That's a myth.

For these and many other reasons, we are not concerned with the purported reduction in local control that Bill 160 represents.

**Mr Ted Johnson:** On the subject of preparation time, we see the proposed reduction in secondary teachers' prep time to match teaching time requirements in other prov-



inces to be reasonable. We do not support the argument that high school teachers need to fulfil hall and lunchroom monitoring duties. We do not think the electorate that voted in this government supported the idea of \$80,000-a-year hall monitors.

No one disputes that Ontario high school teachers aren't doing valuable things with their prep time, but what are they doing that requires so much more prep time than, say, their counterparts in gang-troubled high schools in west-central Winnipeg? Are Ontario students learning more because of these additional resources? The fact that more than half of the high school graduates entering Humber College in Toronto require language skill remediation suggests that this is not the case. It's time to apply a best-practices, learning-results-focused approach to our schools.

**Mr Bachmann:** On the topic of uncertified classroom instructors, our organization supports the use of uncertified but qualified instructors in, for example, the arts and technology areas. Although this may result in useful cost savings, we see the prime benefit of such a move being the introduction of more current thinking, additional talents and closer links with the community.

We feel there are other opportunities for differentiated staffing that should be investigated, prime among these being the use of properly trained child care workers in kindergarten and junior kindergarten. We have to make some tough choices about where the resources are going to be allocated. Our organization is a firm believer in investing in the early years of a child's upbringing and education, and we feel that some of the savings that are found, for example, with the reduction of prep time and applied to JK and early programs would be a very good tradeoff.

We'd like to point out that the potential problems caused by uncertified qualified instructors pale in comparison with existing problems with certified but unqualified or underqualified teachers in our schools. We believe it's time to insist, for example, that all grades 7 and 8 teachers of mathematics and science have a minimum of an undergraduate math or science degree, as is the requirement in just about every other province in Canada. In this regard, the recent grade 8 TIMSS results should give us a major reason for concern, given the importance of high technology to our future prosperity.

Another area that has us concerned is that the new language curriculum prescribes a phonetic approach to teaching because that has been shown over and over again to be the most effective way to get kids reading early, yet student teachers or graduates of teachers' colleges coming out of Ontario faculties of education have not been given a proper grounding in phonetics training and in that respect are underqualified. We feel that's a bigger concern.

**Mr Johnson:** Turning to the subject of the role of school councils in our restructured education system, OQE regrets that the word "advisory" has been placed in front of "school council" in the wording of the bill. The reduction in the number of school boards means that administrators and trustees will have far less time available to

deal with issues that are local to individual schools, and we feel that governing, not advisory, school councils will be required to fill this gap. As long as school councils remain advisory and have their focus restricted to chocolate bar sales and school bus safety, parents experienced in management and other areas relative to the effective and efficient operation of our schools will not bother to participate. It'll be a waste of their time.

Not all school communities are immediately ready for governing school councils, but we suggest that the word "advisory" be removed so that those that are can be encouraged to operate on a governing basis.

**The Vice-Chair (E. J. Douglas Rollins):** Thank you, gentlemen. If that's your presentation, we have quite a bit of time left for each party. We'll start with the government side.

**Mr Smith:** Thank you for your presentation this afternoon. The previous two presenters, at least in my opinion, made it very clear that as members of advisory groups and councils they were fairly comfortable with the rules and responsibilities they have now. I recognize you've made the recommendation to remove the advisory component. Perhaps you could give me a sense of what you feel would be the range and role and responsibility of school councils, what you would recommend in terms of the extent that parents should be involved in the management of schools.

**Mr Bachmann:** Certainly as a first step we believe they should be able to put on the agenda a lot of topics that are currently being kept off. We had the instance of a parent council north of Toronto in the spring that tried to bring up curriculum issues because they had some concerns about the curriculum that was being developed. They wanted it discussed at the school council and that was replaced by hot dog days when they showed up at the next meeting.

As a first step we've got to have an acceptance that all topics can be discussed in school councils. Ideally, we see them eventually becoming governing to the extent that perhaps they can even hire and fire principals when the community is ready and then have the principal hire the staff and run the school in concert with the school council, getting feedback from the community. It can go that far.

One of the other speakers suggested that no communities are ready to have governing school councils. We think that's really shortchanging a lot of communities. There are communities where people have tried to come forward and contribute their very considerable skills in areas that are relevant to our schools and have basically gone away thinking it's a waste of time.

**Mr Froese:** In your brief you talked about uncertified classroom instructors and you're talking about "uncertified but qualified" instructors. As you know, there's been a lot of discussion around this in Bill 160. There's nothing in the bill or even a suggestion by the government that we would get rid of certified teachers in the classroom.

When we were discussing the bill in my community, I've asked a lot of teachers to give us as a government, or just talk in general of, different ideas. What would your thoughts be around taking — and I don't even know how



you would do it; I'd just like to get your opinion on it — teachers maybe out of the classroom on sabbatical for a year, those in technology or computers or something like that, and taking them into the marketplace, upgrading them in what's really happening there and then bringing them back into the classroom and teaching the kids those skills? Would that be a possibility? How would you see that working?

**Mr Bachmann:** I think it's a possibility and something we should encourage, especially in the technology area because it's a very tough area to keep schools current. When you think of the investment that has to be made just in equipment —

**Mr Wildman:** Great idea. It would cost a lot of money.

**Mr Bachmann:** That's why you have to start taking the school walls down and moving the school out into the community. That's why you've got to be more open to the idea of having non-certified but very qualified people working in the schools. That's why we have no problem with that part of the bill.

**Mrs McLeod:** You began by saying that you would support most of Bill 160's components as necessary short-term evils. Do I assume from this that you see the powers that are present in Bill 160 as being a prelude to the government's transferring much of that power to local school councils and potentially seeing school boards disappear altogether for want of any role to play at all?

1340

**Mr Bachmann:** I think that would probably be a logical sequence for it, because the reduction in the number of school boards, which was brought about because we wanted to put more resources down into the classroom, requires that the responsibilities be kind of spread out, and school councils are the logical places to have that.

**Mrs McLeod:** I agree with you that from the government's perspective it is a natural sequence. I think Bill 104 provided the basis on which school boards were being neutralized and that Bill 160 gives cabinet powers it needs in the short term to make cuts, and in the longer term to get out of micromanagement, as somebody said earlier, and hand that micromanagement over to school councils.

What concerns me is that as I sat on the hearings for Bill 104, without exception other than the government-appointed Ontario Parent Council, every representative school council that presented their views at Bill 104 said they did not want to take over the sole responsibility for managing their schools, that they wanted to work with local school boards. They felt, although they often had their disagreements and their frustrations with local school boards, that they at least had some local elected accountability.

As a previous speaker said, parents can't shout loudly enough to get Queen's Park to hear them, but they are also saying: "We don't want that responsibility ourselves." Why do you think this should be forced on school councils that clearly are saying, "This is not the role we want to play in our schools"?

**Mr Bachmann:** We're not saying they should be forced to run governing school councils. We believe there are communities that have people who are qualified to do it, who are interested in doing it and they should be given a chance. We're kind of promoting a pilot arrangement to have some school councils, where they're ready, bring it in.

You've got to understand we're taking a system that has shut parents out from any meaningful input for decades and we're saying, "How come you don't want to run the school next year?" That's going to take time. That will take evolution.

**Mrs McLeod:** You won't find me arguing against a greater role and I don't think you'll find any of the parent councils that presented on Bill 104 arguing against a greater parent role. They're saying they do not want to have the sole responsibility for running their schools.

If you're talking about pilot projects, it seems to me that's still within the umbrella of a local school board managing the schools. What you've said to me is that you see Bill 160, combined with Bill 104, as the prelude to the eventual elimination of school boards, in which case we're not talking about pilot projects, we're not talking about a handful of charter schools; we're talking about parent-run schools as the only alternative to total control by the provincial government. Is that what you're advocating?

**Mr Bachmann:** Eventually, if that works, that's what we should move towards, but we have to make this next step work first, which is a reduced number of boards working with school councils that are going to have to be far more active and with a larger range of issues. If that works, then there's no need to take it to the next step. But what we keep getting from teachers all the time is that they keep saying: "We are buffeted, We're just overwhelmed with all these social issues. We get categorized oftentimes as just a testing group, that all we're interested in is the academics," but we know that teachers are trying to teach these kids mathematics, language skills and so on in the context of a very, very turbulent social setting in a lot of cases.

How do you deal with those issues? You have to get it to bubble up from the communities. That's where the solutions are going to come from. You have to empower the communities. The more we can get that done through governing school councils, the happier we'll be, but if it can work with a reduced number of boards, and advisory school councils, so be it. Why not try different forms? Maybe a governing council and one board will do wonderful things.

**Mrs McLeod:** Then why did the government create a situation in which the local board's accountability is already taken away so that therefore there is no role for the school boards, so that they are likely to disappear? If what you're advocating is where I think there could be some measure of consensus among parent councils who have presented, among all of us who see a greater role for parents as being valuable — you're talking about pilots within the existing system, yet the existing system has been destroyed between these two bills. There is no local



accountability left. It's a question of the provincial government, cabinet, and whether they transfer that to parent councils. There will be no in-between.

**Mr Bachmann:** Aren't we kind of rushing a little bit? We presented to the EIC this morning about the roles and responsibilities of trustees in the new scenario of the reduced school boards of Bill 104, and to my understanding that hasn't been defined yet, what the roles and responsibilities of the trustees are. My understanding was that there are going to be significant roles and responsibilities. For you to say that they are not going to have anything at all, you're just playing the worst-case scenario.

**Mrs McLeod:** It's not me saying it; it's Bill 160.

**Mr Cordiano:** I was just curious as to how you would see a reduction in the number of teachers, which Bill 160 paves the way towards — the minister has even admitted that as many as 4,000 teachers would be eliminated from Ontario's schools — is going to improve the quality of education in Ontario.

**Mr Bachmann:** One of the difficulties we have with the bill is that it doesn't answer some of the questions like, what are they going to do with those dollars they save with those cuts?

**Mr Cordiano:** Right, so you agree with that.

**Mr Bachmann:** Yes. We'd love to have that answered, and maybe it'll happen in the next few days. I don't know. I guess our faith is that the government has said they're committed to maintaining quality of education, and if those cuts somehow start to show, and certainly Ernie Eves was quoted last week as saying he didn't think — the \$1-billion figure, by the way, remember, was kind of waved around like a red cape and it was silly to wave it around because I think a lot of it was conjectured.

Our group is saying: "Let's take those 4,000 cuts at the secondary level, and where do we need to apply those resources? Let's look at JK, let's look at kindergarten but let's look at doing it effectively, efficiently, using differentiated staffing, making sure we're not spending more in terms of staffing at those levels." Why not use qualified day care professionals working under the supervision of teachers and pull more kids into the school system early on so that they get on the track early?

**Mr Cordiano:** What you're saying essentially is that the \$1 billion, or however much it is, has to go back into the classroom. We may disagree on how that should be done but you agree that any of those savings should go back in the classroom. You want that to be proven to you before you would go along with what the government is suggesting in Bill 160.

**Mr Bachmann:** I don't know if you can always be assured about every issue on the table. The government has said they are interested in quality education. They have put into place some programs. They have certainly developed the curriculum. They've got a testing program. As imperfect as it is, at least it's established. We've got improved report cards. There are a lot of good things happening and we have faith that they will continue and make sure that any cuts don't get down to the bone.

**Mr Wildman:** Thank you for your presentation. It has certainly stimulated a lot of questions in my mind. I'd just like to pick up on a couple of things you've said in the last few minutes. You've said two or three times that you have faith. Faith is a good thing. I admire those who have strong faith. You've also said there's nothing in the bill that indicates where the money is going to go, and there's certainly nothing in the bill that indicates that the money saved will be reinvested.

**Mr Bachmann:** Is that enough reason to kill the whole thing?

**Mr Wildman:** No, there are many reasons. This is a very large bill. I'm just raising this one because it seems to me that the funding formula is crucial. I think you'd agree with that and I think everyone interested in education from whatever standpoint understands that the funding formula is a central issue. Unfortunately we don't have it.

There are lots of rumours going around. Some of them may be well founded and some may not be. At one point Mr Snobelen, the previous minister, said we might have it by mid- to late October. There has been the suggestion by Mr Eves last week that the government wouldn't take \$1 billion out or wouldn't need to. He didn't say he wouldn't take the money out or wouldn't take any money out. He said he wouldn't take \$1 billion out. I suspect that he may be talking in the range of, say, \$600 million.

**Mr Bachmann:** You're guessing.

**Mr Wildman:** Yes. It's just a good guess. If the government is taking the money out, and I underline the "if," in savings to be used for whatever other purpose the government may have, does that in any way shake your faith?

1350

**Mr Bachmann:** Not if they retain a focus on what kids are learning in the schools and making sure that is not suffering, because that should be our primary focus.

**Mr Wildman:** I agree with that. I agree that it should be our primary focus.

There have been a lot of changes in education over the last few months. Some of them started with the royal commission, and other changes prior to the change of government, and have been completed now. Others have come in in the last two years. Was your group in favour of the establishment of a College of Teachers?

**Mr Bachmann:** Generally, yes, although some of the stipulations in there, like the automatic recertification, we had some problems with.

**Mr Wildman:** How do you square that with the suggestion that there are certified but unqualified teachers and there might be qualified but uncertified people who should be teaching? How does that square with your support for the College of Teachers?

**Mr Bachmann:** I think in most professions now there is an acceptance of the use of support staff, people with additional skills, paraprofessionals. There are ways in which you can put differently qualified people into the education setting, and sometimes teaching a class may be the most effective way to use those people. We'd love to see the teaching profession use Bill 160 — I've said it —

as a wakeup call to move from being a trade union to a profession. That's really what they've got to do.

**Mr Wildman:** Could I just ask two more things in follow-up to that. Right now teachers bring non-teaching experts into classes to instruct, in consultation and working with the teachers. That happens a lot. Most of us think it should happen more. The real question is whether the qualified technical expert, musician, artist or whatever should actually be instructing the class without a teacher present. What is your view?

**Mr Bachmann:** I think in some cases that wouldn't be a problem at all. I don't know.

**Mr Wildman:** Even if the person has no training in pedagogy?

**Mr Bachmann:** Our feeling, especially at the high school level, is that there is far too much emphasis put on methodology and far too little on content. The best teachers are the ones who have full mastery of their subject matter. That's not enough, but that's definitely more than half the equation, so we don't foresee a problem there.

**Mr Wildman:** I'll just finish by saying that I wish I had more time. The government limited the time of presenters so I don't, but —

**Mr Bachmann:** All governments do.

**Mr Wildman:** Not as much as this one. This is unprecedented.

I would like to pursue with you at some point the apparent contradiction between your support for province-wide bargaining and your desire for a decentralized system, but I think my colleague has a question.

**Ms Lankin:** I just wanted to pick up on the issue you have stressed with respect to the importance of early childhood education. I think it was a very unfortunate decision that the government cancelled the early years program, the pilot projects that were being developed along that line, and we have seen as well a deterioration in junior kindergarten.

One of the issues we don't get to talk about much in terms of this bill, because the large focus is on the impending dispute with the teachers around the content of the bill, is a provision which would prohibit the minister in the future from making any capital allocations to the construction of child care centres in schools. Most of this bill is about taking powers and giving them to the minister. This one takes away a power.

We had a program in this province in which in every new school a child care centre was built. It was a move towards understanding the importance of early childhood education, the seamless day. It seems to me terribly shortsighted to prohibit that. Have you looked at that provision of the bill? Do you have a concern about that?

**Mr Bachmann:** No, to be honest with you, I haven't looked at it. As you know, there are 260 pages and there is a limit to what you focus on. I haven't talked to the people at the ministry as to what their motivation was for doing that, but I don't think it was because they sensed that early childhood development was any less important. Our concern is that —

**Ms Lankin:** It was fiscal. They cut the budget. They took money away and now they're saying it will never be put back. It's a fiscal decision.

**Mr Bachmann:** Then we're going to have to look at alternatives, at ways of bringing the resources out of the community. A lot of the problems in the system that we see addressed by Bill 160 are that money is poured in from the top to handle problems that are very, very local. We think the solutions are going to have to be local and we would love to see the government — our discussions with them are that they are aware of the need to focus on early childhood. Obviously you can't include everything in Bill 160 or the other things that are going on, but it is part of the ongoing things they are reviewing.

**Ms Lankin:** I think you're stretching really hard to find a way to defend this. Given what you said about the importance of early childhood education, why would we support taking a step right now to prohibit the inclusion of the delivery of early childhood education services in a school setting, a community-based setting, in the future? That's what this little clause in this bill does. It seems to me to be shortsighted. It's not a necessary step at this point in time. It's because they made a fiscal decision to cut the budget.

**Mr Bachmann:** I can't really speak to that, but I would hope that what they're thinking of is that somehow they are going to use the community resources in some way other than through the school to look after those needs. That would be my hope, but I really can't comment beyond that.

**The Vice-Chair:** Thank you, gentlemen, for making your presentation. Your time has expired. On behalf of the government, we want to thank you for appearing before this committee.

## ONTARIO COLLEGE OF TEACHERS

**The Vice-Chair:** The next group appearing before the committee is the Ontario College of Teachers. If you would take your places and introduce yourselves, it would be appreciated.

**Ms Donna Marie Kennedy:** My name is Donna Marie Kennedy. I am chair of the Ontario College of Teachers. On my left is John Cruickshank, vice-chair of the college, and on my right is Margaret Wilson, registrar of the college. Thank you for inviting us to be here this afternoon as we address the standing committee on Bill 160, the Education Quality Improvement Act.

The Ontario College of Teachers is the regulatory body which licenses, governs and regulates the practice of teaching in Ontario. It was established less than 16 months ago in response to calls for increased public accountability to students, to parents and to taxpayers.

The college represents 161,000 qualified teachers in the province, including teachers and principals in public and private schools, supervisory officers, occasional teachers, qualified teachers working in the Ministry of Education and Training and some university professors and college instructors. For the purposes of the college's



brief, which you have before you, we will only be commenting on those issues which we feel impact the regulation of teaching.

Mr Justice James McRuer, who chaired the 1968 Royal Commission Inquiry into Civil Rights, set out the philosophy that has guided self-regulation in this province for the last 30 years:

"We have made it clear that the power to admit a licensee is not conferred to protect the economic welfare of the profession or occupation.

"The public has a genuine and very real interest in knowing that the members of the self-governing bodies are properly trained and have good ethical standards.

"The public must be able to rely on the judgement of those who are empowered to decide that persons licensed to practise a profession or engage in a self-governing occupation are qualified.

"That being so, the responsible and experienced members of a profession or occupation on whom the power of self-government is conferred should be in the best position to set the standards to be met and the qualifications of anyone who aspires to enter the profession or occupation."

**1400**

We are meant to operate in the public interest. It is our view that in establishing the Ontario College of Teachers, the government made a promise to the public in that regard. Last year, the Ontario Legislature recognized the teaching profession's specialized knowledge and skill and trusted the profession to use that knowledge and skill to advance and protect the public interest.

Professions are self-regulated in this province because there is the potential for a significant risk of harm to the public if the services provided are performed by someone who is unqualified or unfit. That is why parents, students and the general public expect that classrooms in this province are staffed by certified teachers who are appropriately qualified and accountable for their practice.

Our concern with Bill 160 is that it compromises these principles of regulation. Contained in the proposed Education Quality Improvement Act are a series of clauses that will give the Minister of Education and Training broad regulation-making powers that could be used to permit the hiring of individuals who are not teachers, and therefore not governed by or subject to the authority of the college. Section 81 of the bill in particular would allow the creation of two classes of teachers: those required to be college members, and subject to the requirements of the college; and those who are ineligible for college membership and cannot be held accountable for their conduct or teaching practice by the college.

The college believes these provisions of Bill 160 will undermine the work of the college. They undermine the public interest in ensuring that our teachers are knowledgeable, competent and qualified. They undermine the public interest in ensuring that our children are not in the care of incompetent or unfit instructors.

The teaching profession has accepted the responsibility for holding our members to a high standard of discipline. Less than two weeks ago, cabinet approved a comprehensive

professional misconduct regulation developed by the College of Teachers, with full input and support of both the public members and the elected members. This regulation provides teachers and parents who put their children in our care with clear guidelines, far clearer than we have ever had before in decades of regulation by the ministry.

For parents and students, quality education means they have the right to expect that teachers who are licensed to teach have the knowledge and qualifications to do so. They have the right to expect that teachers have completed pre-service teacher education and are participating in ongoing learning activities that enable them: to plan the delivery of the required curricula over the school year in a manner which connects the content being taught to that of previous and future years of schooling and to other subject areas in the curricula; to adapt to evolving curricula and understand how it is organized and how it should be communicated; to develop varied strategies and design or select motivating tasks that best foster the learning of all their students; to assess and evaluate the progress and achievement of their students and to help them meet expectations and fulfil their potential; to understand and provide for the differing learning needs of exceptional students, as well as the differences within the classroom based on culture, language, family context, prior schooling, student potential and responsiveness to preferred approaches to learning.

Students also have the right to be taught the subjects covered by the province's curriculum guidelines by teachers who are qualified and accountable for their practice. Section 81 of Bill 160 leaves several questions unanswered with regard to the accountability of the new classes of teachers or instructors, their qualifications and their duties.

How will the designated positions that are not teaching positions and the duties that are not teaching duties be identified by the Ministry of Education and Training? How will the instructors in these positions acquire and maintain their qualifications? Who will determine the suitability of these individuals to work in Ontario's classrooms or what standards their performance will be judged against? What is the relationship between the teachers and the instructors intended to be? What outlet will parents, children and others have to deal with incompetent or unfit instructors? Who will protect our children from acts of professional misconduct? What will be the impact on students currently attending faculties of education and planning careers as teachers? Will regulations govern the qualifications and duties of the instructors as well as how the right to practise can be obtained or lost? Finally, will the Ministry of Education and Training create within itself a registrar's department paralleling that of the College of Teachers when the mandate of the college is to look after character, quality of instruction, competence and ethical standards?

There seems to be an assumption that possession of knowledge and skills is synonymous with the capacity to impart the knowledge and skills to elementary and secondary students. The research on effective teaching clearly



shows that this assumption is wrong. Teachers are specially trained to teach children and adolescents. Music teachers, computer teachers and physical education teachers have successfully completed a pre-service teacher education program and are certified to teach in our classrooms.

Students require trained teachers who understand the curriculum to be delivered and know how to teach their students. In most school boards in the province, our members work with social workers, psychologists, speech pathologists, occupational and physical therapists, all of whom are already self-regulated. In addition, we work with teacher aides who are also school board employees.

There is an established practice in Ontario school boards of hiring teachers' assistants and paraprofessionals, in particular to assist teachers with children with special needs. Where this is the case, however, a qualified teacher is responsible for program planning and delivery, student assessment, liaison with parents, as well as supervision of the individual who assists in the classroom.

Parents have different expectations about the instruction a child receives when he or she joins a baseball team, receives swimming instruction or attends art classes on the weekend than they do about the education received in their child's school. The college cannot ensure that the training of these instructors meets the standards set by the college for the teaching profession. We certainly cannot ensure that these individuals will adhere to a code of ethics or be subject to professional discipline if they breach this code. That is why we are here today to recommend that references to clause 170.1(3)(e) and subsections 170.1(4) and (5) of the Education Act, as outlined in section 81 of Bill 160, and subsection 262(2) of the Education Act, as outlined in section 118 of Bill 160, be withdrawn.

We have communicated our concerns to the Minister of Education and Training in a meeting we had this morning. We have a further meeting scheduled with ministry staff on Tuesday in an attempt to find a solution. The minister was also in touch with the college by letter on October 17, 1997, wherein he indicated that it was not the government's intention to change teacher qualifications or alter the role of the college, and we are encouraged by both the tone and content of that letter.

The Ontario College of Teachers does not see the world engraved in stone. We are interested in sustaining and improving the quality of the teaching profession and therefore the service received by students, parents and the public of Ontario in our schools. The college has the mandate, the resources and the commitment to move forward. But we do not believe we can do that effectively when we are not sure who will be placed in the classroom and whether or not the individuals are competent or qualified to be there. We submit to you that it is one thing to augment and/or facilitate the teaching practice in the classroom through the help of trained assistants or paraprofessionals; it is quite another to contemplate the substitution of qualified teachers with individuals who are not trained to teach students.

**The Vice-Chair:** Thank you for the presentation. That gives us quite a bit of time for each party, starting with the Liberals.

**Mrs McLeod:** I appreciate your being here, and I appreciate your particular focus on this section of the bill, because it has certainly been an issue of concern. I just want to re-establish the fact that you've mentioned section 81, which affects clause 170.1(3)(e) of the Education Act, that the cabinet can designate positions that aren't teaching positions. The second part of that is that there may be a regulation establishing "different requirements for different classes of teacher," and the other one is the non-presumption clause, that it cannot "be presumed that a person is required to be a teacher solely because he or she holds a position that is not designated under clause (3)(e)," which seems as wide open as it can possibly be.

What you're saying, equally clearly, is that any individual who could be allowed to head up a classroom under any of these regulations by a decision of cabinet would therefore not be governed in any way by certification, by standards or by disciplinary action that could be brought to bear for —

1410

**Ms Kennedy:** That's correct; that's our understanding of the reading of those sections of the bill.

**Mrs McLeod:** I'm encouraged to hear that you feel you've had some positive response from the new minister on this issue, because it's one of the major areas of contention in terms of this even being here, let alone the speculation on how that might be used in the future.

The Education Improvement Commission — I struggle on the initials — has very specifically identified a number of areas in which you could have non-teachers, experts in the field, not simply brought in at the teacher's recommendation to present to the class, but to head up the classroom. It is equally clearly a cost-saving measure as that's been presented. How do you feel the positive response of the minister today weighs against the equally clear recommendations of the EIC in this regard?

**Ms Kennedy:** I don't think we're prepared to comment on the EIC report because today we're being asked to deal with Bill 160. Clearly those are the sections of the act that we're concerned about and those are the sections that we want to address today in front of this panel. We are encouraged by the minister's meeting with us this morning and further encouraged by another meeting set up tomorrow morning with the staff of both the College of Teachers and the staff of the Ministry of Education. We did clearly say to the minister that these four sections of the act were our concerns and we asked him to address those issues with staff tomorrow morning.

**Mrs McLeod:** I hope we can see some progress on this because it is not an accident, is not inadvertent. It's not a drafting error that these provisions are here; it is absolutely consistent with what the EIC presented in its very glossy document, *The Road Ahead*. For the government to retreat from these parts of the bill would signal a very real change in the direction that was being set out on the government's behalf by the EIC.



One of the concerns I still have is the additional powers — long past transitional periods — that are going to be given to the EIC. We're going to have to be sure that if there's any change in these particular clauses, it's not in some later way transferred to the EIC to make the kinds of decisions you don't want cabinet making now.

**Mr Cordiano:** I was just curious. You mentioned that you met with the minister this morning. Had you been given an opportunity to talk to the minister prior to the introduction of Bill 160 in the Legislature? Were you consulted at all prior to that?

**Ms Kennedy:** No, we were not.

**Mr Cordiano:** You were not; interesting.

**Mr Wildman:** Thank you very much for your presentation. I don't want to appear melodramatic or as overdramatizing anything, but obviously one of the most important roles of the college is to ensure not only the standards of teaching but the safety of students, and to ensure that where disciplinary measures are required there's a process for dealing with that. When one considers some of the concerns that have been raised in other areas of our society, such as the coaching of athletic teams and the safety of adolescents and younger children, one can see the importance of the role you have in the teaching profession, representing teachers and trying to ensure proper professionalism. In your meeting with the minister this morning, which you found encouraging, did you pose the questions which are listed on pages 5 and 6 in your brief to the minister?

**Ms Kennedy:** Of the full report of our submission to you?

**Mr Wildman:** Yes.

**Ms Kennedy:** The questions that you're referring to are —

**Mr Wildman:** "What is the government's intent in introducing the clauses contained in sections 81 and 118?"

"How will the designated positions that are not teaching positions and the duties that are not teaching duties be identified by the Ministry of Education and Training?"

"How will the instructors in these positions acquire and maintain their qualifications?"

"Who will determine the suitability of these individuals to work in Ontario classrooms, or to what standards their performance will be judged against?"

"What is the relationship between the teachers and the instructors intended to be?"

"What outlet will parents and others have to deal with incompetent or unfit instructors?" That's one I'm particularly concerned about.

"What will be the impact on students currently attending faculties of education and planning careers as teachers?"

"What regulations govern the qualifications and duties of the instructors, as well as how the right to practice can be obtained or lost?" This is, again, another very important one.

"Will the Ministry of Education and Training create within itself a registrar's department paralleling that of the Ontario College of Teachers?"

Did you pose those questions, or some of them, to the minister this morning?

**Ms Kennedy:** Yes, all of those questions were presented to the minister. We provided the minister with information of what questions we would be bringing to this afternoon's meeting with this standing committee. The minister is quite aware of these questions and our concerns. I would just tell you that it was a half-hour meeting. It was an introductory meeting.

**Ms Lankin:** He didn't answer the questions?

**Ms Kennedy:** No, the questions were not answered. That's why we're here today also, to present to you our concerns and the areas of the bill with which the College of Teachers is very concerned.

**Mr Wildman:** I congratulate you for raising these questions because they are crucial and very important for the profession and for the safety and quality of education of students. I understand you're having another meeting tomorrow morning with staff.

**Ms Kennedy:** With staff of the two bodies, yes.

**Mr Wildman:** Chair, with your indulgence, I would ask the parliamentary assistant to give us the answers to these questions on behalf of the Ministry of Education and Training.

**Mr Smith:** There are a number of questions. I'll undertake to get the answers to you and furnish them to the committee as soon as I possibly can.

**Mr Wildman:** I hope so.

**Mr Smith:** I would as well, since you've raised the issue, be prepared — if you've not already received it — to obtain a copy of the minister's letter dated October 17 to the College of Teachers so that you have that as information.

**Ms Lankin:** You've raised the most important questions. They focus on all the concerns we have with respect to these sections as well. Let me come at this a different way. In the last week or so we've heard the government change its positioning around what the intent of these sections was. We believe that it is to replace teachers in the classroom, to head up curriculum program areas with people who do not have teaching certificates.

Lately what I've been hearing from government members and supporters of the governments is some wording around this being to set in place minimum qualifications for those who would come in who are not teachers who are coming in to assist teachers. If that was all it was, I think we would all perhaps think that was useful. That may be going too far, because there are lots of people you bring in from the community as experts who, when they're there with the teacher, don't need minimum qualifications. Can you comment on that? It seems your reading of it suggests that's not simply what it would accomplish and that it would allow them to replace certified teachers with non-certified instructors in a whole range of programs.

**Ms Kennedy:** That is a major concern for us. That's why we're having another meeting tomorrow morning with the ministry staff and with the staff of the college. I'll ask Margaret to respond further on that.

**Mrs Margaret Wilson:** The thing that is troublesome with that interpretation is that it doesn't match with the actual wording of the sections. I've spent 20 years of my life dealing with government regulations. The fact is that when you set up a regulation that prescribes qualifications for someone, you give that person a piece of paper that says "qualified." They have to have something to carry around. You also, in setting up the minimum qualifications, describe something about their education. You have to keep records of that.

If you give the piece of paper that says one is qualified to do something, you have to be prepared to take it away. So in clause 3(e), it's a regulation prescribing minimum qualifications, not a description of duties under schools general regulation 298. Subsection 4 is very specific, "A regulation may establish different requirements for different classes of teacher," which means that you would have a College of Teachers running a regulation, which was transferred to us on May 20 this year, on one class of teacher and apparently the Ministry of Education running a parallel operation.

I'll be honest: I find that confusing in more than one way because I thought the whole trend of modern government, not just with this government but with the previous two, if I may look at people on this side of the room, was that ministries were becoming policy ministries, were getting out of direct service, and that some of the downsizing and transfer of responsibility was to do that. Here you've got the ministry re-establishing something it just divested. One could get confused about the longer-term intention.

1420

**Mr Boushy:** I have a very brief question to you: How do you feel about Wayne Gretzky coming to your school and teaching hockey to a class?

**Ms Kennedy:** I think Wayne Gretzky would be welcomed into any school as a guest, a visitor. We do that every day in our classrooms across this province: bring in experts from different fields, invite them in to demonstrate particular skills. John Cruickshank, who is the principal of an elementary school, can give you some prime examples of those kinds of things happening.

**Mr John Cruickshank:** The question is interesting. Of course, anyone at that skill level will be welcome in a school to help present a particular skill to youngsters, but that's teaching in a very narrow area. There are few people in the world like Wayne Gretzky who can make a living out of it. For the vast majority of youngsters who are interested in it, that's not going to be their world. That would be a nice motivational thing for them, but it's not instructional programs.

We also have all kinds of examples of very proficient athletes who have gone beyond their athletic expertise, received teacher training and provided outstanding educational programs for youngsters in the school. But in and of itself, as the principal of a school, we need the trained teacher, not just someone with a very specific and narrow skill area who can't connect it to the broader base of an educational program that is critical for our young people

as they move forward. We don't know what our graduates' world is going to look like 12 years from now, when I look at the kindergarten youngsters in my school, but we can't provide them with a narrow set of skills. We have to teach them at a much broader base.

**Mr Wildman:** — training by quarterback Russ Jackson.

**Mr Cruickshank:** He was a colleague of mine on the Peel Board of Education.

**Mr Boushy:** I just want to follow up on a narrower scale. If Wayne Gretzky comes to you and says, "I want to teach a class for one month. I have a month off. I'm going to come in every week and teach a class," would you object to that, for one month or two months steady?

**Ms Kennedy:** I think we have to be very careful about what you're suggesting. We just established through the College of Teachers a misconduct regulation, with the full support of both elected and appointed members, to establish standards of behaviour. I hope no school board across this province would go out and say, "You can come into my school for a month," or, "You for two months." We particularly set standards for that very reason, not only in the area of misconduct, but also in the areas of standards of practice and all those other areas that we're very concerned about.

**Mr Smith:** I realize you steered away from a question that Mrs McLeod raised concerning recommendations of the EIC, but I would be interested, given the minister identified it in his letter to you, in your interpretation and perhaps application of what would be considered a team approach to staffing in order that professionals and other paraprofessionals work alongside certified teachers. What would be your understanding of that concept?

**Ms Kennedy:** I can speak about a team approach from my own personal experience. When I worked with profoundly handicapped students in a school, I depended heavily on a developmental service worker to work with me, to work with a teaching assistant, to work with occupational therapists, physiotherapists, speech pathologists, and the list went on and on. We did very much work as a team to develop programs and to implement those programs, myself as a classroom teacher, to do that. There are many approaches to teams presently working in our schools. If that could be expanded upon, I think teachers across this province would be very open to that.

**Mr Smith:** Just as a matter of clarification, Mrs Wilson, could you just revisit the issue where you feel there's conflict, just so that I understand, the section that you feel conflicts with responsibilities of the college, with what's proposed in the bill and certification of teachers?

**Mrs Wilson:** If you look at both clause 170.1(3)(e) and subsection 170.1(4), very specifically they're proposing that a regulation be set up by the Lieutenant Governor in Council. It would have to be under the Education Act and the regulation would prescribe minimum qualifications for designated positions, which certainly implies that there's a means of recording what the qualifications are. It's normally called a register for anything that's run this way. Then (4) has that the "regulation may establish



different requirements for different classes of teacher.” What I’ve said is you would then have two regulations running in parallel: the regulation under the Ontario College of Teachers Act, which was just transferred to us this year from the Ministry of Education, and apparently the Ministry of Education operating another regulation in order to describe another set of qualifications for another class of teacher in (4).

**Mr Smith:** It’s basically clauses 170.1(1) through (5)?

**Mrs Wilson:** Yes.

**The Vice-Chair:** Thank you very much for your presentation before the justice committee. We appreciate the presentation today.

#### ONTARIO HOME BUILDERS’ ASSOCIATION

**The Vice-Chair:** The next group is the Ontario Home Builders’ Association. If you would take your seats and introduce yourselves for Hansard, it would be appreciated.

**Mr Peter Goldthorpe:** Good afternoon. My name is Peter Goldthorpe and I’m director of public affairs with the Ontario Home Builders’ Association. OHBA represents the home building industry across Ontario. It’s a voluntary organization. We have 3,200 member companies across the province in 34 local associations.

Earlier this afternoon we heard Mr Wildman say that this is a very large bill, so I guess it’s probably prudent for me to begin by clarifying what I’m here to discuss and probably what I’m not here to discuss as well. Mr Newman, who has left, surmised a little while ago that I’m here to comment on education development charges. That’s correct. I’m also going to make a few comments about education financing in general to set the context for EDCs.

I’m not here to talk about the length of the school year, nor am I going to talk about preparation time, class size, who is qualified to instruct students or the whole plethora of thorny issues that are raised and tackled by Bill 160. These are all matters of great importance and I think your time would be better served if we confined ourselves to those aspects of the bill where the home building industry has some unique experience.

As you probably know, the Ontario Home Builders’ Association challenged the constitutional validity of education development charge bylaws that were passed under the current Development Charges Act. A little over a year ago, the Supreme Court of Canada ruled that education development charges are constitutional, but the court also accepted as a matter of fact that the charges are passed on to home buyers and other end users, and that would be tenants in rental apartments, it would be tenants in commercial developments that are paying the education development charges.

From a legal perspective, this fact turned out to be of little importance, but from the point of view of tax policy, it remains central. The fundamental issue in education finance is who benefits and who should pay. Those who defend unrestricted use of development charges to finance

capital costs in education say the people in new homes benefit from new schools so they should pay for them. But let me submit that this view is both shortsighted and dangerous. It carries the potential for establishing a two-tiered education system in this province.

Affluent families who can afford to live in subdivisions where additional charges are being placed on their housing will be able to send their children to spacious, modern schools. Those who are less well off will have to live in older areas and make do with whatever school facilities are available. This is why we are pleased to see the province assuming responsibility for a larger share of education costs and it is why the Ontario Home Builders’ Association is pleased to see the restrictions that Bill 160 places on the use of education development charges.

#### 1430

Now, please do not take this last statement as unqualified endorsement of this new EDC regime Bill 160 introduces. The restrictions do not go as far as the industry believes they would in an ideal world, but they will substantially reduce the unfairness in the current legislation.

I would like to turn now to some specific provisions in the proposed legislation.

This legislation is modelled closely on the provisions in Bill 98 that amend the Development Charges Act. The home building industry remains concerned that Bill 98 will not reduce development charges in many municipalities. But we are very pleased with the procedural changes that improve accountability and make it easier to understand the charges. In this regard, Bill 160 benefits from Bill 98.

Having said that, there is one important aspect of education development charges that does not seem to be clearly established in Bill 160. One of the intents of Bill 160 is to allow school boards to use development charges to pay for growth-related net education land costs. But this principle does not appear to be explicitly stated in the legislation. I would suggest that the legislation should explicitly state that boards may impose education development charges to pay for growth-related net land costs, and they can model that provision after the similar provision in Bill 98.

As is the case for municipal development charges, Bill 160 sets a five-year term for EDC bylaws. But Bill 160 also allows boards to extend the term of the bylaw. Extending the term of a bylaw means that charges could be imposed during a period for which there are no estimates of growth, pupil place requirements and education land costs. This would make it virtually impossible to understand the charges. The provision for extending the term of the bylaw should be struck out. Alternatively, the legislation should clarify that the term of the bylaw can only be extended so long as it fits within the horizon of the EDC background study for that bylaw.

In the transition provisions, Bill 160 allows boards to continue education development charge bylaws until March 31, 1999. I believe the date is misprinted in the bill, but that is not why I raise the issue. Rather I want to

underline the importance of two proposed restrictions to this continuation. These should not be altered.

First, the area to which a bylaw of an old board applies remains the area to which the continued bylaw will apply, even if the successor board may have a larger jurisdiction. To apply the continued bylaw more broadly would be to impose charges without the justification of a background study. This would substantially undermine accountability.

The other point is that boards cannot pass new bylaws that apply to areas to which a continued bylaw applies. Some boards may argue they need the old charges for projects that are already in the system and new charges for new projects. But a board may amend a continued bylaw under the old act. So it may, if it wishes, fine-tune transition to the new regime right down to a specific development. This allows it to derive full benefit from both EDC regimes without double-taxing any development.

There are just a couple of additional points I would like to touch on.

The first of these concerns the expiry of EDC bylaws passed on or after September 22, 1997, and the requirement that charges paid shall be refunded. I suggest this is reasonable. Over the summer several of OHBA's local associations met — or I guess the operative word is "tried" to meet — with school boards to discuss proposed EDC bylaws. The message our locals gave was always the same: At that point in time the government had given a clear signal of its intent to fundamentally alter education financing and contemplation of bylaws under the current act was premature.

The second point concerns provision for different EDCs for different types of residential development. The currently prescribed calculations for education development charges — that's under the current legislation — do not provide for variable residential charges. These are permitted for municipal development charges under both the current legislation and Bill 98.

As I read section 257.59 the new legislation will provide for variable charges but leaves it to the regulations to prescribe the calculations. The regulations should provide for variable charges based on the need for services that is anticipated for different types of residential development.

The last point concerns the proposed amendment to the Planning Act that requires the developer to offer a school site at market value on the day before draft approval as a condition of approval for the plan of subdivision. As I am sure you can appreciate, this quickly takes us into a myriad of equity issues. There are a number of ways of dealing with this concern. Suffice it today to say that I believe the principle should be established that no developer loses economic opportunity simply because a selected school site happens to be on his or her piece of land.

That rounds out my specific comments. As a closing remark, some of the school boards have already been critical about what they perceive as a restriction in funding from EDCs. In a sense they are correct. But this is only half the story. In a court of law, it is not sufficient to tell the truth; you have to tell the whole truth. The money available from EDCs may be less, but in this case the

costs the school boards must finance are also less. The province is taking over the financing of school construction.

When I started, I explained how reliance on EDCs can establish a two-tiered school system. We are embarking on a new financing model of education. The fundamental principle in this new model is that everyone benefits from a sound education system, so everyone, based as much as possible on their ability, should pay.

If this is the principle, and OHBA believes it should be the principle, then there is little room for EDCs in a fair and reasonable education finance structure. Restricting the use of EDCs to site acquisition is one way to improve accessibility for all Ontarians to quality educational opportunities. Thank you for your attention. I will be happy to try to answer any questions you might have.

**The Vice-Chair:** Thank you. We will start off with the NDP. We have approximately six minutes per side.

**Ms Lankin:** I don't think we'll take that long. I appreciate your presentation; it has very specific issues in it. I have two technical questions. It's just not understanding this area of the bill well enough and therefore needing clarification on your comments.

On page 3 of your submission, in the fourth paragraph, you're suggesting there need to be restrictions on the transition provision for continuation of EDC bylaws. You suggest that "the area to which the bylaw of an old board applies remains the area to which the continued bylaw will apply, even though a successor board may have a larger jurisdiction."

**Mr Goldthorpe:** That's right.

**Ms Lankin:** That's what's currently in the act as it is before us?

**Mr Goldthorpe:** That's correct. Under the current legislation, you define a benefiting area in a development charge bylaw.

**Ms Lankin:** Do the transition provisions continue that?

**Mr Goldthorpe:** That's right. Some of the boards are amalgamating or merging, whatever the term is, and they'll cover a larger jurisdiction than a benefiting area that may have been defined by a current board. With Bill 160, that original benefiting area remains the benefiting area for the new amalgamated board.

**Ms Lankin:** That's why I didn't understand the next concern you raise, which is that you're saying, "To apply the continued bylaw more broadly would be to impose charges" without justification. I agree with that, but that's not what Bill 160 does, is it?

**Mr Goldthorpe:** No, it doesn't.

**Ms Lankin:** It doesn't. You're saying it's a good thing it doesn't.

**Mr Goldthorpe:** I'm suggesting this is a provision in the legislation which should remain unaltered.

**Ms Lankin:** Thank you. Sorry, that's why I was lost.

**Mr Goldthorpe:** That's okay. It's a big bill.

1440

**Ms Lankin:** The other question I have is with respect to your assertion that a developer should not suffer loss of economic opportunity because of the siting of a school on



their particular property. Again, help me understand that in terms of what you're suggesting with respect to Bill 160. I'll give you an example. In my community of Beaches-Woodbine, near Greenwood Race Track there is a major new development going in. Part of the zoning work that went into that was to insist there be a piece of land put aside for a new school. The need for that school is only occasioned by the development. Why would you have a problem with that?

**Mr Goldthorpe:** The Greenwood Race Track situation may not be the best example of where the problem arises. Where the problem is likely to arise is in a greenfield development where a number of landowners may hold parcels of land which are making up part of a big secondary plan.

**Ms Lankin:** So you're saying the cost should be shared among the whole group of them.

**Mr Goldthorpe:** That's right. The school site may be on one parcel of land.

**Ms Lankin:** Bill 160 doesn't specifically deal with that, then.

**Mr Goldthorpe:** No, it doesn't.

**Mr Wildman:** I have one question which may be speculative, so if you can't answer it, fine.

**Mr Goldthorpe:** That's okay.

**Mr Wildman:** There have been musings by various members of the governing party from time to time over the last number of months that perhaps the way to go in terms of financing new school construction would be for school boards to make agreements with developers where the developer, or perhaps some other company the developer might have an agreement with, would build the school, the plant, and might then operate it, or I suppose contract out the operation of the school and lease it to the board, or there would be some sort of arrangement like that. Do you see anything in Bill 160 that might facilitate that kind of development in future?

**Mr Goldthorpe:** I wasn't looking for that in the bill when I was reading through it, but if my memory serves me correctly there are provisions for leasing arrangements, for leasing of land and acquisition of sites. I was on the expert panel on pupil accommodation over the summer and it's certainly something we discussed. It's certainly something that a number of developers and builders in the industry are prepared to talk to school boards about, and there has been some of that up in the Brampton Springdale area, I believe, where it's been tried and seems to be working. I think it's an option which is viable and this legislation leaves as viable.

**The Vice-Chair:** To the government side.

**Mr Smith:** Thank you very much. In your presentation you indicated the "restrictions do not go as far as the industry believes they would in an ideal world. But they will substantially reduce the unfairness in the current legislation." Could you elaborate, based on your experiences, on the type of unfairness you've been experiencing with the current provisions?

**Mr Goldthorpe:** Development charges are a regressive form of taxation, and with education serving in part

as an aspect or a function of income redistribution, providing opportunities for those who are less well off to get the skills necessary to get established in this world and improve their life, education should be financed on taxes that are paid for on the basis of ability to pay, not on regressive taxes because regressive taxes affect those less well off disproportionately. To the extent that you conceive of education as in part an income redistribution program, it shouldn't be financed by regressive taxation. Development charges, as I said, are regressive.

**Mr Smith:** The bill on page 156 — I'm not sure if you have a copy of it in front of you — relates to the comments you made with respect to growth-related net education land costs. Clause 257.61(2)(c) addresses that issue. I'm not sure if that's the context with which you're —

**Mr Goldthorpe:** We can debate drafting here this afternoon if you want. My reading of this is — particularly (c) is what causes me the problem — you're asking for estimates of education land cost, estimates of the net education land cost, and estimates of the growth-related net education land cost, and it's not clear to me which of them is going to be financed by EDCs. I may stand to be corrected on that point.

**Mr Smith:** That was the nature of my question, to get perhaps your continued look at that particular section, and as well the definition that is provided concerning that issue on page 152, and provide further clarification. Those are all the questions I have.

**The Vice-Chair:** Anybody else from the government side with a question? To the Liberal side.

**Mr Cordiano:** I don't have many questions. I would just simply like to know from your perspective — it seems to me you are suggesting the bill does not clarify certain of the discrepancies around development charges. You made mention of the uncertainty with respect to development charges being used to pay for growth-related net education land cost. There seems to be a lack of clarity in Bill 160 with regard to that. Could you further expand on that. I'm not quite sure what the uncertainty is.

**Mr Goldthorpe:** The point I just made is this question of interpretation of the legislation. My reading is that, if you look at Bill 98, there's a very explicit statement. I don't have the bill with me and didn't memorize the wording, but it's a very explicit statement that the municipal development charges will be collected to pay for services that are growth-related, and then a definition of growth-related. I don't see that in a single statement. You might be able to piece together a definition and another section and make the argument, and certainly the government's been clear in stating its intent in other places.

**Mr Cordiano:** It fits in with what we have concern about in Bill 160 regarding the minister's discretionary powers, and how virtually everything can be determined within the ambit of regulation passed by the minister. That yet again is another example of a lack of clarity and could presumably end up in the minister's hands for determination. Is that your reading of this? Is that the concern you have, that once again under Bill 160 the minister has a

greater latitude for determining these matters with regulation.

**Mr Goldthorpe:** With respect, I don't see anything concerning this particular issue that would have it end up in the minister's office.

**Mr Cordiano:** Okay, so that's not a concern.

**The Vice-Chair:** Thank you, Mr Goldthorpe, for making your presentation.

**Mrs McLeod:** Mr Chairman, on a point of order: I want to recognize the fact that we are having a number of written submissions tabled before the committee from individuals who will not have an opportunity to actually present orally to the committee. I've been on committees where the practice is to at least record in the minutes the fact that these written submissions were received by each individual or group. I can do that by reading that into the record, but that would take some time, if we have concurrence that the names of people with written submissions can simply be entered in the record, obviously not the full submissions, just the name of the individual making the submission.

**The Vice-Chair:** We can probably do it at a later time if we catch up some time, but they will be put in, I would think.

**Mrs McLeod:** If I can have some assurance that the written submissions will be entered in just as a note, I will not take the time of the committee to read the names.

**Mr Wildman:** I have a couple as well.

**The Vice-Chair:** Okay, we'll put them in all in one group.

#### PEOPLE FOR EDUCATION

**The Vice-Chair:** The next presenter is People for Education, please.

**Ms Kathryn Blackett:** My name is Kathryn Blackett. I'm a member of People for Education. I just want to explain that some of the people here in black veils are effectively mourning what we see as the death of public education in Ontario. Some of us will read statements from people who were not allowed to be here. These are people from around Ontario who were not given the chance to speak at these hearings but wanted to, along with 1,000 or so other applicants.

**Ms Gay Young:** My name is Gay Young. I'm reading a statement from Alistair Thomson, co-chair of the school parent council of Cundle Heights Public School in Barrie, Ontario:

"My major concern with Bill 160 is the investing of draconian powers in the Education Improvement Commission. The erosion of democracy in this is frightening. No longer will elected officials, trustees, be able to freely make decisions in the best interests of the parents who elected them to do so.

"To use a club this heavy just because some(?) trustees abuse their power, because some(?) teachers abuse prep time is nothing more than a blatant grab for power by bureaucrats who have not seen the inside of a classroom in many years.

"If such a heavy club is necessary, it should be used to curb this atrocious abuse of power by this government."

1450

**Ms Blackett:** I'm reading a statement for Don Byng:

"I've been a parent of the St Luke Catholic School Advisory Committee for four years. During my time on the committee I've encouraged parents and educators not only in my school community but throughout the board to view the role of parents in the school as much more than bake sale organizers.

"I have found that I can telephone and speak with anyone at the board, including the director and the chair, even though the Metropolitan Separate School Board is a \$700-million organization. Last winter I tried to meet with a special assistant in the Minister of Education's office and that person would not spend even five minutes with me.

"Instead of giving parents greater control over the education of their own children, Bill 160 moves decision-making power much further away. As an individual parent I believe I can influence decisions at my school board. I personally have seen my efforts change the way some administrators and trustees make some decisions. I can't imagine having the same impact if I don't even know what questions are being considered behind closed doors at Queen's Park.

"Some people tell me Bill 160 is good for the separate school system because it guarantees equal funding for Catholic children. Generations of parents have lobbied to get the same money for their children's education as that provided for their neighbours' children across the road. We never lobbied for public school families to lose resources — to bring funding down to our level."

**Ms Alanna McDonagh:** My name is Alanna McDonagh and I'm a parent. I would like to read a statement from Colin Pacey, who is the president of the Brant County home and school associations:

"Basically this bill gives the government powers they shouldn't have. It's too extreme and it's being shoved through too fast. It is not well thought out, there are no concrete proposals in it and it could be used in many different ways depending on who gets hold of it. This wouldn't be a good bill no matter what political party was in power. It is a drastic bill and it shouldn't be put in place.

"Most of the media coverage about this bill has been about the teachers, but I don't think that's the main point of the bill. This bill is about power and about taking it away from everyone except the provincial government.

"When Mr Johnson talked about the part of the bill that has to do with uncertified people teaching, he said it was so people could come in and teach pottery and things like that. Well, that's already been happening in our schools for 20 years. All you need is a letter of permission to do that, you don't need new legislation. That part of the bill is a smokescreen to enable them to bring in non-professionals to teach our kids. We have had some problems with the teachers and some of the things they've been saying, but we definitely think it's wrong to cast teachers off as being uncaring and unwilling people.



"Last of all I want to give the government members a warning. They shouldn't take people's apathy or lack of response to what this government is doing to education as a sign that they accept it. People may not be being vocal about their dislike of this bill, but that doesn't mean they like it."

**Ms Sherry LeBlanc:** My name is Sherry LeBlanc. I'm reading a statement from Trish Eisenhour, the chair of the parents advisory council, Larchwood Public School, Dowling, Ontario, part of the Sudbury Board of Education:

"We just had a meeting of our school council and we all agreed that our biggest concern about Bill 160 was the vagueness of it. There's too much left to the unknown. You can't tell what's going to come down the pike later after this bill is passed.

"In terms of specifics in the bill, first of all they have to address class sizes in a way that guarantees they will come down. We have classes with 35-40 kids in them. But they can't just make the classes smaller and then cut somewhere else. The reason the classes are so big at our school is that we have no money for any more teachers. We lost 30 teachers in this region in the last couple of years.

"Another concern in the bill is the idea of having people in positions of trust that lack proper training. We don't want just anyone coming in and teaching our kids.

"We're concerned about the nitty-gritty things like the caretaker," not international hockey celebrities coming to teach at our school. "These are the things that matter in a small school like ours. We've lost so much already, we have nothing left — everything's gone. What are they going to do? Draw blood from our arms? The cuts were so bad last year that we had to get a different cheaper bus company to bus our kids. That meant the local company went bankrupt. People in the community lost jobs. Where's the good in that? We'd like to have books that don't fall apart, and a librarian. This bill isn't going to get us any of those.

"In terms of the teachers and their issues, parents here understand and support them." And it's not only in Dowling, Ontario. "Parents here understand bargaining. Lots of us work for Inco and Falconbridge — we understand bargaining and contracts. What we don't understand is the idea that someone comes down the line like a dictator and starts taking stuff away. Teachers have a right to bargain for prep time. We support teachers here, and we empathize with them.

"We want our kids to have the best they can have. That's what we pay taxes for. The feeling here is that budget cuts have become the focus of this government and not the welfare of the students. If this government really cared about education and the future ability of our country to compete globally, and if they really cared about children, they would put their money where their mouth is.

"All the stuff that's going on now is unsettling for the kids. Morale is low here — for students and teachers. I don't believe Premier Harris is in touch with the common

folk. He wouldn't put his child in a school in northern Ontario the way they are now.

**Ms McDonagh:** This is a statement from Marilyn Logan, who is the chair of the Dufferin county home and school associations:

"I'm frustrated, I'm confused! I feel like a child whose parents are fighting. One parent is changing all the rules and the other is responding with frenzy. Neither is taking time to communicate. I'm left in the middle with no guidance or support, and trying to protect the rest of the family from the ugly beasts.

"Yes, there is room for change in Ontario's education system. But ignoring the value of input from the expertise in the field is wrong. The teachers are the experts here. When you ignore them you cause the pendulum to swing with equal force! You backed the federations against the wall, and now you claim they can't fight. What other choice do they have?

"And the press has seized the opportunity to make issues out of non-issues.

"You put the parents right in the middle of it all. And where has it left our children? Think about it! Not smart politics!

"Yes, the teachers will likely strike, we'll keep the kids home, or make alternative plans to spare them the confusion.

"Unless, just maybe, you revert to some more conventional method of effecting change!"

My last statement is written by myself, Alana McDonagh.

I have a daughter in grade 3 at Garden Avenue Public School here in Toronto and Bill 160 makes me want to cry. When I think of how the quality of my daughter's life at school will almost certainly be degraded by the effects of this piece of legislation, I want to cry. When I think of the way Bill 160 undermines the most democratic institution in our society, our public education system, I want to cry.

When I think of the way Bill 160 robs us of the last remaining traces of local community control over our schools, I want to cry. When I think of the way Bill 160 hands over absolute power over all aspects of our children's education to one man or one woman, I want to cry. When I think of the way Bill 160 hands over absolute power over all aspects of our children's education to one man or one woman, I want to cry. When I think of how Bill 160 decrees that our teachers will no longer have any say over classroom conditions, I want to cry. When I think of how this government has ridiculed both teachers and students, when I think of how this government has lied and attempted to manipulate public opinion in order to ram Bill 160 down our throats, I want to cry, and I want to scream, "Stop this ruthless and cynical attack on our children and our schools."

I beg you, members of the committee, to vote your conscience and recommend the withdrawal of Bill 160.

**1500**

**Ms Annie Kidder:** My name is Annie Kidder. I'm a member of People for Education and I'm a parent. People

for Education is a parents' group. We represent parents from public and separate schools, parents from all over the province, parents who are Liberals and Conservatives and NDP. We are all parents who have been active in our children's schools. We have lots of different opinions about politics and about how our children should be taught, but we all believe in the importance of fully publicly funded education, and we all believe in the importance of democracy. None of us are afraid of change. We don't necessarily want everything to stay the way it is, but we believe it is terribly important that the process by which change is made be democratic and that when we do change the system, we ensure that we change it in such a way that democratic involvement will always be possible.

I know this is all supposed to be terribly official, but I just want to be a bit personal for a second. I have been working for the last two years fighting cuts to education, as my messy house and the bags under my eyes will attest, and the thing I've known all along is that you can't take any of it too personally. You can't get so emotionally involved that you take it personally that very few large battles are won. But when I read this bill, that changed. I lost my objectivity. This bill appals me, Annie Kidder. I don't just disagree with it; I am dismayed by it.

I was talking to my mother about this bill, and it reminded her of a judgement my grandfather made just after the Second World War. My grandfather was the chief justice of the Supreme Court of British Columbia. When he was on the BC Court of Appeal, he made a judgement against a government department that had to do with orders in council, and at the time he talked a lot about the danger of government through orders in council. He said that this way of governing was useful during the war because it made things more expedient — democracy is a famously slow method of governing — but that the problem with governing through orders in council was that it gave government departments too much power, and that once they had that power, they were loath to give it up.

This bill leaves everything up to orders in council. Every aspect of the education system is covered in this bill, and there are no details in it. Everything is to be done by regulation later, so if this bill passes, there will be no more chances for public involvement. There need be no more public hearings like this one. There will be no need for debate in the Legislature. The papers will not have articles in them about proposed changes, because we won't have to hear about changes until they are already made.

Our main and overriding objections to this bill have to do with its removal of democratic process in the education system. This bill creates an imbalance of power. All the power will rest in the hands of whoever happens to be the Minister of Education and in the hands of the Education Improvement Commission. The Minister of Education will be able to make fundamental changes to the education system behind closed doors.

It's bad enough that the Minister of Education will have all this power, but at least he or she will be elected. Even worse is the amount of power the bill gives to the

Education Improvement Commission. They are not elected, they are government appointees, and if this bill passes, they will have the power "to make orders that shall be enforceable as if they were orders of the Ontario Court."

If the Liberals or the NDP were trying to pass this bill, we would object. It's important that the government members on this committee remember that if by chance they are not re-elected, then this bill will put all the same unrestricted powers in the hands of an NDP or Liberal education minister. Thus our education system is left open to change at the whim of politics. As parents, we fear for the stability of our education system. If this bill passes, will everything change every time there's a new government or a new opinion poll?

I was asked the other day if there was anything we liked in this bill. The one provision in the bill we wholeheartedly agree with is that education funding must operate in a fair and non-discriminatory manner. It is wrong that some boards have so little; the system should be made more fair. But as a parent, I know that when my kids complain that it's not fair that one of them has much more than the other, it does not solve the problem to make it so that they both have nothing. That is not fair either.

There are no details in the bill as to how the problem of fairness is going to be addressed, so parents are not particularly reassured by it. We are worried that this government thinks "fair" means making everyone do without libraries and librarians or junior kindergarten and special education programs. It would be a lot easier to have faith in this government's promise to legislate fair and non-discriminatory funding if they would show us the funding model first. Call me cynical, but it makes me a bit suspicious that they won't tell us how they are going to fund education until after they've got all the power.

When I talk about this bill, I always think I must be exaggerating, but I promise you I am not. I have read sections of it over and over again. It gives the Minister of Education the power to take over the administration of boards if he or she decides they are mismanaged. The minister may sell the assets of boards, and he or she may decide, without going through any more legislation, to amalgamate more boards. There would never have to be another Bill 104 to pass. Boards would just be amalgamated at the whim of a minister.

The bill states in some sections that the minister may make regulations that "may be made to apply with respect to any period specified in the regulation including a period before the regulation is made." Just by the way, in my grandfather's judgement he found against the government, he said the one thing that orders in council could not be was retroactive.

I want to address two specific sections of the bill which are of particular concern to parents: the class size provision and the non-certified teachers section.

The bill says, and it says this constantly in every section: "The Lieutenant Governor in Council may make regulations governing the size of classes in schools or boards and governing the method of determining the size



of classes.” That’s it. It doesn’t say anything more — no details. The bill doesn’t say anything about lower class sizes. It doesn’t even spell out what the method will be for determining class size, and we all know how important it is how you count. The ex-Minister of Education said it was the fault of boards and teachers’ unions that our children’s classes were so large. He didn’t mention the effect cuts have had on class size.

If this government is really interested in lowering class size, why doesn’t the bill say that? Parents would like to see specifics in the bill. We want it spelled out. We want to know what the maximum allowable would be in each grade, and along with specific numbers, we want added to this section a specific guarantee as to how the cost of lowering class sizes would be covered. Keeping class sizes reasonable costs money. We don’t want class sizes capped at the expense of other programs. We don’t want smaller class sizes to mean more cuts somewhere else.

Then there’s the “who can teach” section of the bill. I know you have been talking about this all morning, but I’m sorry, I just want to go through it one more time. It states: “The Lieutenant Governor in Council may make regulations designating positions that are not teaching positions and duties that are not teachers’ duties and prescribing the minimum qualifications for a designated position or for performing designated duties.” Again, that’s it. It’s totally wide open. It doesn’t say maybe a non-certified teacher might teach art or hockey; it says the Minister of Education can decide what positions are not teaching positions, and it puts no limits on him or her.

Then a bit later there comes my favourite part of the whole bill. I have it up on my fridge now. It’s called the no-presumption clause, and it says: “It shall not be presumed that a person is required to be a teacher solely because he or she holds a position” that has been designated a non-teaching position. That’s a lot of double negatives, but anyway, what this does is give an education minister the right to decide that no one has to be a certified teacher in order to teach in our schools. If this section of the bill is meant to allow non-certified teachers to help teach in the art room or in the hockey arena, why doesn’t it say so? Why are there no specifics? And if this section is actually there so that real teachers can be replaced by non-teacher professionals, then there are many concerns.

I have two friends who were both very good theatre designers. They each went back to university so that they could become teachers. They are now both high school teachers. They took special courses to enable them to deal with kids with behavioural problems, with learning disabilities, and with kids who didn’t speak English. Their training as theatre designers did not teach them how to teach.

Why are there no specifics in the bill about funding or about taxation? This bill gives the province the right to set education taxes, but it doesn’t say how they will be set or if they can guarantee that the taxes won’t go up in rural ridings. Why are there no details about what a minister can or can’t do with boards’ assets? Why are there no details about what a school council is? This bill will make

it a law that we have to have them, but we have no idea what they are.

All the changes have to be made, all the new contracts negotiated and new boards up and running by September 1998. This is a guarantee of chaos in the months to come. Parents are not afraid of change, but they are afraid that by making changes too fast and without careful planning, our children will be hurt.

**1510**

There are times in the lives of governments when they have to do the brave thing. Sometimes the brave thing is to say, “Okay, let’s pause for a minute and rethink.” The brave thing for this government to do now, and the thing that would earn the respect of parents across the province, is to put this bill on hold, go back to the drawing board, and come up with a new bill with specifics in it. It is the provincial government that has set itself these unworkable deadlines. It is within their power to change them. I urge you on this committee to ask of your government leaders that they do the brave thing.

**Mr Wildman:** It was very eloquent.

**The Chair:** We have two minutes left per caucus.

**Mr Froese:** I’ve seen your group before at different committee hearings, particularly education. I know you’re against everything this government does. There isn’t one —

**Ms Kidder:** We are just against cuts to education.

**Mr Froese:** No. When you make presentations, it’s always, “No, no, no, no, no.” When you did your presentations and read from letters from different people in your organization — I presume it’s in your organization — “No, don’t do this, don’t do this, don’t do this. Don’t do what you’re doing.” But I’ve yet to hear anything from your group — if you’re for education, why don’t you give us some positive, constructive suggestions how to do it?

In my riding, we have action sheets. We take calls from people in the community, and it’s seven to one on, “Make sure you reform education the way you said in the Common Sense Revolution, the way that both the NDP and the Liberals had agreed with some of the” —

**Ms Kidder:** They didn’t agree to massive cuts to education. I’m sorry, sir. That’s not true.

**Mr Froese:** What they’ve told us is that they want more instructional time for students.

**Ms Kidder:** This bill doesn’t give them that.

**The Chair:** Excuse me. The member did not interrupt you.

**Ms Kidder:** Sorry.

**Mr Froese:** They want a tougher back-to-basics curriculum. We’ve done that. They wanted standardized province-wide testing, and we’ve done that. They wanted understandable report cards so that the students and the parents can understand what that report card says. They wanted the class sizes limited. There’s no doubt about it. We have said that we would not increase class sizes. They want more say in education.

That’s what they’re saying. I would like to know why you can’t give —

**The Chair:** Sorry, your time is up. You only had two minutes. We'll move on to Mrs McLeod.

**Mrs McLeod:** No wonder you're frustrated. You have made presentations throughout Bill 104, only to see Bill 104 totally ignore any of the concerns that you've raised. You've just listened to one of the government members say, "Well, we don't listen to you because you never come and tell us what you think we should be doing." My goodness, you've been saying over and over again, "Don't do to us, as parents, what you are doing with Bill 104 and now what you are doing with Bill 160." How can you be clearer?

You've said you want more involvement as parents in your children's education, but you want it within the context of school boards that you can work with; you want it in the context of local accountability. Where you see a role for provincial government, yes, it can be in curriculum, it can be in testing; no one's arguing with those, although we may argue with the methodology. But that's isn't what Bill 160 is about. Today you come here and say, "We're looking for some guarantees about what our children are going to receive from this government." All we get is Bill 160 with total and absolute control for government and no accountability built into this bill and no ability for parents to appeal.

I'm going to give you a chance to respond to Mr Froese. But, Annie, my last frustration that I want to share with you is that the letters you read, again, were not from single parents, not even representatives of single parent councils, but representatives of umbrella groups representing their parent councils in their areas. When is the government going to understand that this is not a handful of people who, for some reason that Mr Froese doesn't understand, are against his government? This is a broadly based representation of parents. Please some day listen to them, and to you.

**The Chair:** You've used that time up. We move to Ms Lankin.

**Ms Lankin:** I heard you during the Bill 104 hearings when you had a whole list of proposals that you presented to the committee, and I heard you today. I heard you say, "Put in the specific maximum class size." I heard you say, "Tell us in which areas non-certified instructors are going to be used." But Mr Froese didn't hear you. Annie, you've got the rest of this time — I'll give it to you — to put your positive suggestions forward so he can listen this time.

**Ms Kidder:** My concern is that the government keeps going back to, "We have done these things." I came here to talk specifically about Bill 160. Those things are not specifically in Bill 160. We did come with proposals. I did explain what our fear is about Bill 160, which is that it's

government by regulation. That is our main fear about it, and that there are no specifics in this bill.

Mrs McLeod is right. These are not people who are part of our organization. One is the chair of the Brant County Home and School Association. These are not some radical flakes from west Toronto, and neither am I.

We are actually members of PTAs and we are concerned about what's going to happen and the powers that are given in this bill. We did come with specific requests. We want the class size provision in the bill spelled out. We want the non-certified teacher portion of the bill spelled out. We want the funding part of the bill spelled out. We want to know how education is going to be funded before this bill is passed. We want to know how the taxation system is going to work before this bill is passed.

We want to see the details. We are very, very frightened by the amount of power this bill gives. I promise you — I mean it — I would be frightened if this bill were in the hands of any political party. It's too much power and there are no details in it.

**The Chair:** Time is up.

**Ms Lankin:** I realize that. I have a point of order, Chair: I think that the series of questions that Ms Kidder just put out — and they'll be recorded in Hansard — are important ones. I would like to ask the parliamentary assistant to undertake to respond to them so that we have a clear sense of what the maximum class size will be, what the funding formula will be, what the use of non-certified teacher instructors will be. That series of questions, as Ms Kidder spelled out, would be helpful for the committee to have, that information.

**The Chair:** Thank you, ladies.

**Mrs McLeod:** On a further point of order, Chair: The parliamentary assistant has just tabled the letter that was sent by the new Minister of Education to the College of Teachers in which the statement is made that the minister agrees that it is not this government's intention that Bill 160 would change teacher qualifications or alter the role of the college. I'd like to ask then for a written response from the minister, through Mr Smith, as to exactly why those particular clauses addressed by the College of Teachers are present in the original legislation.

**Mr Wildman:** Was that tabled?

**Mrs McLeod:** Just now.

**Ms Lankin:** On a point of order, Chair: It was just said that it was tabled. We do not have copies of that here.

**The Chair:** It wasn't tabled. It was passed around by the clerk.

**Ms Lankin:** Perhaps the clerk could bring more copies.

**The Chair:** Additional copies will be distributed.

*Report continues in volume B.*



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## **Assemblée législative de l'Ontario**

Première session, 36<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

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Lundi 20 octobre 1997

## **Standing committee on administration of justice**

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## **Comité permanent de l'administration de la justice**

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de la qualité de l'éducation

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 20 October 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 20 octobre 1997

*Report continued from volume A.*

1520

EDUCATION QUALITY  
IMPROVEMENT ACT, 1997LOI DE 1997 SUR L'AMÉLIORATION  
DE LA QUALITÉ DE L'ÉDUCATION

Continuing consideration of Bill 160, An Act to reform the education system, protect classroom funding, and enhance accountability, and make other improvements consistent with the Government's education quality agenda, including improved student achievement and regulated class size / Projet de loi 160, Loi visant à réformer le système scolaire, à protéger le financement des classes, à accroître l'obligation de rendre compte et à apporter d'autres améliorations compatibles avec la politique du gouvernement en matière de qualité de l'éducation, y compris l'amélioration du rendement des élèves et la réglementation de l'effectif des classes.

BLAINE MITTON

IRENE POWERS

**The Chair:** Our next presentation is by Irene Powers and Blaine Mitton. Welcome. I'd ask you to proceed. You have 10 minutes between the two of you. Written submissions have been filed by both of you, and members of the committee should have those.

**Mr Blaine Mitton:** Good afternoon. I believe I'll go first, if that's okay with the committee, re Bill 160. Thank you for the opportunity to appear before your committee. My name is Blaine Mitton. I am president of the Peel Taxpayers Coalition.

First I'd like to give a little background for my presentation that I feel needs repeating lest we lose perspective for the exercise. This provincial government has over \$110 billion in debt inherited from past governments of various distinction. The federal government has a \$600-billion debt.

We have a 9% unemployment rate, shameful in a country with our natural wealth and when compared to our neighbours to the south, whose unemployment rate is about 5%. Further, the average income for people between the ages of 20 and 30 years has fallen to 72% of their counterparts in 1981 as measured in 1993 dollars.

If education is the resource that helps us generate wealth, it has surely failed us in many respects. Internationally, people are catching up. Look at the retail stores and see where the majority of our consumer products are made. We are not competitive; thus our high unemployment rate. More important, we are not competitive in many cases because of our high taxes. The prices of many of our products reflect taxes collected on behalf of governments, besides our income taxes.

Let me say this: Education costs are a large part of the tax bill, and when half of the education costs are spent outside the classroom, we know much of our tax dollar does not go for teaching students.

We want a provincial curriculum, a provincial test for all students, provincial grading: a measure of scholastic performance to a standard for all schools across the province. Then we will know where the best schools and best teachers and teaching methods are used. We will not need school boards to tell us how great they are, with no real comparison or means of measurement.

Industry has been using statistics for years to improve quality and performance. Why are teachers and their unions so scared of this? Are they afraid to compete? Do they not measure up?

A per student allocation of funds with variance only for transportation and heat is needed. Then we will know how much money each school board should have to spend.

In Singapore one Saturday morning, I watched a skilled teacher on local TV present a chartered accounting course for all to see, with video assists that were clear and to the point. It was impressive and memorable. This type of teaching could be presented for all courses as many times as desired in a classroom, from the best, with assistant teaching coaches. If prep time is such a big problem, this could be a solution. By the way, I went to a school with over 40 students and eight grades in one classroom. There was only one teacher. She never had any prep time. I don't understand the prep time issue for a skilled teacher teaching two or three subjects repeatedly.

We need change. Picture this if you will: A student I know has gone to nursery school, junior kindergarten, senior kindergarten, grade 1, grade 2, and is now in grade 3. Five years and roughly \$30,000 of taxpayers' money later, the student cannot readily tell time nor add or subtract numbers under 20 with any degree of assuredness. This is five years later. Don't talk to me about prep time. Talk to me about bottom-line results. This student is smart

but lazy. Outside tutoring is now under way. Worse, this student has not gained any work ethic, mental discipline or any level of real expectation. Solid work habits will have to be taught at this late date. Social skills were improved tremendously this summer at a Y camp through competition and team spirit.

Student-centred learning is a fraud on the taxpaying public. In this school there are no textbooks, so parents have no measure of what to expect. This is ridiculous. Money has been taken from textbooks for salaries.

**The Chair:** Excuse me, Mr Mitton. You only have 10 minutes between the two of you. At the rate you're going, you're going to take all 10 minutes with your presentation.

**Mr Mitton:** How much do we have left, sir?

**The Chair:** You've got five minutes left.

**Mr Mitton:** I'll move on a little bit.

Further, don't talk to me about hurting students' self-esteem by failing them. What kind of self-esteem do you have when you realize you can't tell time in grade 3?

Education costs over \$7,000 per year per student currently; \$8,400 if you are in Metro. When you look at the actual costs in a classroom of 25 students, you have to wonder where the money goes and how effectively it is spent. Maybe students could even have textbooks. Taxpayers are fed up with paying for poor service.

I'll jump down a little bit further.

To make my point about how fed up people are, the new 407 became a toll road recently and traffic dropped by 66% even though drivers had to endure heavy traffic. If anyone is watching and listening, there is a message. The people are ticked off with paying extra taxes or tolls when moneys are being spent so ineffectively by all levels of government.

Implement Bill 160, and if the teachers go on an illegal strike, fire them. Give them their pension, then implement right-to-work legislation. There are a lot of young people who would love to teach and receive those wonderful salaries. You are the senior management. We elected you, not the unions, to make change. Do it. Stay the course. Prove to the voters of this province that you deserve to be returned to office. Rise to the challenge, which we know all too well is real. Thank you.

**Mrs Irene Powers:** My name is Irene Powers and I am not affiliated with the taxpayers' coalition, Peel or any other one, at the moment. I am an Ontario working mother residing in the town of Caledon. I have two children aged eight and 11 in the public school system. I have not been paid to attend these hearings. Rather, I have taken time off work to be here because I care about the future in education of our children.

I support regulating of class size and more teacher-student time. Allow administrations and teachers to come up with creative methods of efficient and effective teaching within these new size standards.

I support more classroom hours.

I support more money going into classrooms in the form of textbooks. Spending for our children's education at a basic level must come first.

I support the hiring of staff in specific areas without teaching degrees. What a great opportunity for other professionals to share their knowledge in a different environment.

I support fewer PD days. Kids do not need more time out of the classroom.

I support year-round teaching beginning with an earlier start to the school year.

I support a reduced number of school boards and less top-heavy management in the system.

I support a reduction in the number of trustees and the consideration that perhaps it should become a part-time position and not a springboard to higher political aspirations.

I support the sharing of services between public and private school boards to reduce duplication and cost.

I support the removal of education taxes from our property tax bills.

The reason I support the government's efforts in changes to our educational system is simple: I don't believe in mediocrity. I don't accept mediocrity from my children and I would be a party to continuing mediocrity in education if I didn't speak out in support of change.

Many of the impending changes to our education system by the government are in fact still vague. However, it is the effort and direction of this government to attempt to change an outdated, ineffectual and expensive system which I applaud and support.

The status quo is one of reports and discussions and meetings and public input. We are in information overload. Let's have faith in the combined efforts of our elected government and our educators to work out the fine details of this plan.

To our educators I say: Stop threatening strike action. I do not give you the right to make my children pawns in your serious games of control to maintain a failing system. It should be remembered that we pay your salary. You are responsible to us, the public. If you are successful in your unbending quest to strike, it will not be tolerated without severe consequences. If not the very least, your reputations are on the line. The line is thinning; don't try so hard to erase it. It can only be to the serious and immediate detriment of our children to go out on strike. There is no benefit to this way of thinking.

It is arrogant of the teachers' unions to believe that only they know what is right in the educational process. It is my contention that when you live in a protected environment, it becomes increasingly difficult to see beyond the walls of that system. What we parents want for our children is the exposure to the outside world, the outside ideas and the people from the outside who, although they do not hold degrees in education, are in many instances most able to transfer their knowledge to the students.

1530

We know that this is a tough chunk to swallow for the educators, but what can we lose by trying? In fact, what do we have to lose by any of these changes? If the pressure on Bill 160 exists at the next election, another government would be elected and rescind the changes, kind of



like a democratic system rather than empowering a few with personal investments to be protected.

It is my personal belief that the opposition parties sleep well knowing that the tough and necessary solutions are being made by others and their dreams are to inherit a healthy Ontario.

To the honourable Premier Mike Harris and Mr Dave Johnson I say sincerely, do not bow down to special-interest groups. Blaze your own trails for the good of Ontario and stay on track for all of our sakes. It takes courage to be different. Anyone can maintain the status quo.

**The Chair:** Thank you, Ms Powers and Mr Mitton. The time has elapsed. I thank you very much for your presentation.

**Mr Wildman:** On a point of order, Chair: This morning a number of us raised a concern about the unfilled time slots and it was my understanding there would be an attempt to ensure that those times were filled from the list of people who had made application to make presentations. I'm wondering if we could get an update from the clerk as to the progress in filling these slots.

**The Chair:** There was a request. There was no decision ever made. We will have one coming up. We have a tabled motion from Mrs McLeod on the floor that has to be dealt with today if it's to be of any use whatsoever. Could we deal with it after this presentation?

**Mr Wildman:** Sure, I guess so.

**Mrs McLeod:** Mr Chair, rather than lose an opportunity for another presentation, I would withdraw the motion. My motion related to the desire to see some extended time for presentations.

**The Chair:** Could we deal with it right after this? I will ask the question then.

**Ms Lankin:** I just want to be clear. Am I to understand you haven't decided that question, so the clerk was given no instructions this morning to try and fill those empty spaces for this afternoon? Is that what you're saying?

**The Chair:** No. We're talking about taking someone from the audience. The clerk was given instructions to phone people, which he's been doing throughout these hearings, individuals on the large list.

#### CARMEL SUTTOR

**The Chair:** Our next presentation is Carmel Suttor. Could you proceed?

**Mrs Carmel Suttor:** My name is Carmel Suttor. I come as an individual parent. I want to speak to you because I want you to know that we parents are very, very worried about how Bill 160 will affect our children's education and what changes Bill 160 will bring.

I come not as a member of an organization. I speak for myself and for parents I've talked to over coffee and in playgrounds. We've been aware for some time that changes are coming to our education system, and since the passing of Bill 104 we've been on tenterhooks wondering what these changes will be. The devil is in the details.

The disturbing thing about Bill 160 is that there are no details. None of the questions that parents ask, such as, "How big will my child's class be?" or "Will my school still have a program for children with learning disabilities?" are answered. What Bill 160 seems to do is to grant the Lieutenant Governor in Council and the Education Improvement Commission sweeping powers to decide these matters by regulation after the bill is passed. Whole sections of the bill give powers to the Minister of Education or the Lieutenant Governor in Council, which I understand is the cabinet, to decide everything by regulation.

Time and time again in Bill 160 we see phrases like, "A regulation under this section may be general or particular," or "The Lieutenant Governor in Council may make regulations respecting any matter that is referred to in this section as prescribed." We see sentences like, "Orders and directives of the Education Improvement Commission under this section are final and shall not be reviewed or questioned in any court." Why? This last one worries me.

We all make mistakes. No government, Education Improvement Commission or cabinet is infallible. They will make both good and bad decisions. What sort of redress will we have when we learn that a bad decision has been made? I'm sure that it will be parents and teachers who deal with their kids every day who will be the first to notice if something is not working for our children. What forum will we have to voice those concerns? Why is it necessary to have no recourse when a bad decision gets made? Ontario is a democracy.

The second thing that worries me is money. Bill 160 will pass before we have any idea how much will be spent and how and where. This, once again, will be revealed afterwards.

The government's news release of September 24 states, "We are committed to ensuring our students have access to the highest quality education in the most cost-effective manner." "The highest quality education" — a laudable goal, no one will argue with that — "in the most cost-effective manner." Is that the point of the whole exercise?

Parents, teachers, editorialists have been worrying for a long time that the uploading of education was to enable the government to take money out of education. I don't remember exactly when or where the \$1 billion figure first got mentioned, but what we've been waiting for is reassurance from the government that every penny we save from restructuring education will be reinvested into education. We have not got that reassurance.

Ontario cannot afford to be penny wise and pound foolish. Education is an investment. The children we are sending to school now need to become competent, capable adults if our society is going to flourish in the next generation. A little reinvestment in training in the current technology is not enough. We have no idea what sort of world our little ones will have to function in when they grow up or what skills they will need in 20 or 30 years. We were not taught how to use the Internet or a word processor when we were children; we learned as adults. We have no idea what new technologies will come along

later. We need to help our children become informed and innovative. We need to equip them with the ability to learn whatever skills they will need to function as adults. We need to allow them to become adults who know how to think.

Let's reinvest every penny we save back into education. Let's do it thoughtfully and carefully. Let's pay attention to the early years when difficulties first occur — an example was just given — when some children need a lot of extra help just to catch up to the average. Yes, that costs money, but every dollar invested into giving children with learning disabilities the extra help they need or giving children from impoverished backgrounds a chance to catch up will be repaid many times when they grow up to become productive adults. Let's invest in all our children of all abilities.

Bill 160 gives the government the power to determine class sizes. Let's put every single child in smaller classes so the teacher can know each child properly and help each child attain his or her greatest potential. Small classes are the only way to bring out the best in every child, from kindergarten right through high school.

Parents care deeply about their children's future. We know that having a high-quality education is one of the things that will give them a good future. We keep a close eye on the schools they attend. If our worst fears come true, if we see the schools deteriorate, with demoralized teachers in overcrowded classes without enough textbooks and we have no power to change it, we will be more than worried. We will be furious.

**The Chair:** I thank you very much. Unfortunately there's too short a time to have all three caucuses take part and there's no time for questions. Thank you indeed for your presentation.

We have two things that have to be done. We have to read in at the request — and I've agreed, but that's going to take about 10 minutes, to read a list of the written submissions received. We have two 10-minute blanks this afternoon. Right now is one of them, and then there's one following. Do we have agreement that we would select someone from the audience, contrary to our prior agreement?

1540

**Mrs McLeod:** I was suggesting earlier this morning that there was a precedent established in the committee hearings on Bill 104 that where there were vacancies, we would do that, providing the individual had indicated an interest in presenting prior to the date.

**The Chair:** All we need is the agreement of all three people if we can do it.

**Mr Smith:** My understanding, then, Chair, is that your interpretation of the — I guess this can't be considered a cancelled slot if they're unfilled, but that the cancelled slots would be filled at the discretion of the Chair with names from the appropriate caucus lists. Have those lists been expired or have they been pursued?

**The Chair:** We were unable to fill them this afternoon. We filled everything except two slots. It was just impossible. The clerk has been working all weekend and in the

office today, and we just haven't been able to fill them from the lists. It's as simple as that.

**Mr E.J. Douglas Rollins (Quinte):** You've got a list that has to be read in, understood?

**The Chair:** Yes.

**Mr Rollins:** We also are not on time. I think we should have the list read in, and then I think we should look at the time factor to see where we're sitting.

**The Chair:** Well, I can start reading the list in.

**Mr Wildman:** Is it really necessary for it to be read into the record? Can't it just be tabled?

**The Chair:** I don't understand that anything can be just tabled and appear in Hansard without being read in. That is correct. In committee, unfortunately, to appear in Hansard it has to be read in. We've gone through this with reading of amendments. Sometimes they're rather long. Yes, Mrs McLeod?

**Mrs McLeod:** I appreciate that, and I do think it's important that people who have made the effort to make written submissions should have those read into the record. I think it's appropriate to take some time for that, since it's apparent we're not going to be able to fill this spot in any event.

But I just want to point out that the reason for suggesting people who are in the audience, whose names are on the list as having contacted the clerk, who followed due process, asked to make a presentation but weren't able to get a spot, is that if they have been present for the hearings and are here, to continue to exclude them when they've sat through the hearings and are here ready to present without notice, when they have gone through due process, is really, really exclusionary. That's the reason for the proposal.

**Mr Wildman:** Could I ask just one other question, Chair, on the process? If we're going to use this time now to read the list into the record, what are we going to do when we finish hearing from Mr Christoff, prior to hearing from Mr Kavanagh, which is the next slot which is not filled?

**The Chair:** After I finish reading this list, I was going to ask the committee just that. You want to deal with it first?

**Mr Wildman:** No. It doesn't matter to me if you deal with it after.

**The Chair:** Okay. Let me read the list: "Sallie Lyons, Toronto; Jane Forbes and Geordie Colvin, Toronto; Debra Clarke, Ottawa; Greg Scott, Haley Station; Ontario Association of Children's Treatment Centre School Authorities; Luigi Tucci, Woodbridge; Teresa Carolan, Port Elgin; Ralph Gentile, Napanee; Concerned Staff of Fairwind Senior Public School, Mississauga; Annette Berry, Sioux Lookout; School Advisory Council, Etobicoke Collegiate Institute; Robert Vollum, Thunder Bay; C.N. Watson and Associates Ltd, Mississauga."

That is the list as given to me by the clerk. The question simply is, assuming that Mrs McLeod withdraws the motion she has tabled, we will have time at 4:20 — it isn't 4:10, but we do have a vacant slot. Is it the desire of this committee that I now address individuals in the audience



to determine if we can select one? Is there any opposition to approaching it in that manner? There seems to be no objection.

Is there any member of the audience who will be here for the next hour and a half who has not made a presentation and would like to do so for a 10-minute period — that's a lot to ask — and who has concerns they would like to express to the committee? It's very difficult, I understand, to do it spontaneously. Yes, ma'am, have you already made a presentation?

**Ms Kathryn Blackett:** No. I applied to the clerk of the committee to speak and was not granted a speaking opportunity. I am prepared and would be quite willing to present.

**The Chair:** Were you not present at the table?

**Ms Blackett:** I was, as a reader for People for Education, but I did not read my own; I read somebody else's, from a Catholic school board.

**The Chair:** And your name?

**Ms Blackett:** My name is Kathryn Blackett.

**The Chair:** Where are you from, Kathryn?

**Ms Blackett:** I am from Toronto.

**The Chair:** Is there any objection? It's the only volunteer we have. Yes. You will be heard after George Christoff.

#### SCARBOROUGH CENTRE FOR ALTERNATIVE STUDIES

**The Chair:** We shall now proceed with the Scarborough Centre for Alternative Studies. Could you identify yourselves for the purposes of Hansard and proceed with your presentation.

**Ms Pam Petropoulos:** My name is Pam Petropoulos. I am a teacher. This is Elaine Lloyd-Robinson. She is a student. We're both from the Scarborough Centre for Alternative Studies, known as SCAS. SCAS is the main adult education centre in Scarborough.

I'd just like to start by thanking the committee for giving us this opportunity to address you today. Elaine and I are representing adult high school students and adult high schools from across Toronto. By "adult high schools" I mean schools that are day school, that are credit programs. It's for students over the age of 21 who are trying to obtain their diplomas, so they are working towards credits to get their diplomas.

Who are adult high school students? They're learners who do not presently have a high school diploma. As you can imagine, a high school diploma is something that's an absolute basic résumé requirement. Adult high school students are people who want to participate fully in the labour force, but they are economically marginalized because they don't have the education, the skills or the training to be competitive in the workforce. Adult high school students are people who are in the prime of their income-earning years. They're people who have decades of work ahead of them. Adult high school students are for the most part people with financial responsibilities. They have families. Many of them have dependent children.

Adult high school students share a couple of things in common: They share the desire and the commitment to improve their lives and to improve the future lives of their children.

In our community, students, staff, co-op employers, graduates and other people who are aware of our programs are disappointed, dismayed and confused by what has been happening to adult education programs across the province.

About two years ago, Bill 34 mandated a 50% reduction in provincial grants for high school students over the age of 21. This discriminatory policy has devastated adult programs outside of metropolitan areas that rely on the provincial grants. It has resulted in approximately an 80% reduction in enrolment in many jurisdictions.

Bill 104 and Bill 160 together will set the stage for Bill 34 to fully impact on adult education programs in Toronto. This will result in approximately a two-thirds reduction of current funding levels. This will do irreparable damage to programs that have been very successful in helping adult learners get the skills and education they need to get back into the workforce. Adult education has a solid record of placing graduates in jobs and preparing them for further training. Within six months of graduation, 75% of adults are either working or enrolled in more advanced training.

The acute social and economic needs in Metropolitan Toronto's diverse population make quality high school education for people of all ages an essential part of the infrastructure. Drastic cuts to programs like these will seriously limit opportunities for people like Elaine, who will now speak.

1550

**Ms Elaine Lloyd-Robinson:** Good afternoon, everyone. Thank you for allowing me to speak with you today. I am a student at the Scarborough Centre for Alternative Studies. Prior to going to SCAS, I was a high school dropout with not many skills. Not a lot of places wanted to hire me besides fast-food; I didn't do much in that area.

I've been diagnosed with ADD. Quite often lots of skills, but the diploma just was not there. I tried going to college twice, which I had to leave because my academic skills were not up to par. I'm now 32 years old. I have three children. Once again, jobless and skill-less.

May 1996, I arrived on the doorstep of SCAS, where I was assessed, given maturity credits and went on to meet counsellors who helped to point me in the right direction, where they feel I should be. Within one year I was able to get my grade 12 diploma through lots of hard work, with lots of good support from lots of good teachers and good people. I was given an award of outstanding academic leadership for that year at that school.

While at SCAS, I also obtained excellent employability skills, leadership skills, computer skills — which are, as we know, essential for the 1990s — and motivation skills. I attended parent workshops, for which I have a certificate. Heightened self-esteem, a sense of hope and my dignity. For this, I feel that I'm a better person, and the greatest thing to me is that I am now able to contribute back to my society economically. That, to me, is impor-



tant. I'm also a better parent and a better worker and a better citizen. For these accomplishments, I'm proud of myself and SCAS and adult education.

There are many more adults like myself who would like the opportunity to make a better life for themselves and for their children. I know this afternoon you'll be hearing a lot of people saying a lot of different things. This afternoon I'm asking that you give careful consideration, and I do mean careful consideration, to adult education. There are lots of adults like myself, like I said before, who would really like the opportunity to get off social assistance and just get their life going once again. Many are victims of circumstances, we all know that, and I think we would all like to be given that opportunity. To me, it is one of the few options that's available to people like myself who need to bridge the gap, who need a bridge to get into the workforce and to establish a career.

With that, I would like to say thank you for listening to me and if you have any questions, I'd be more than happy to answer if I still have time.

**The Chair:** I thank you both for your presentation here today. Our time has elapsed, so I do thank you for your presentation. All members of the committee have received a copy of a written report also, so that will be looked at. Thank you.

#### SENAKA SURIYA

**The Chair:** Our next presentation is Senaka Suriya. Welcome, sir. Please proceed.

**Mr Senaka Suriya:** This bill is a massive one. I probably can't talk about quite a lot of the things here. The way I feel is that Bill 160 is an extension of Bill 104 and the EIC together. As a result of that, I will focus on the subject of my presentation, which would be: Can Bill 160 be a recipe for marginalization?

The approach of the current government to education is unique. John Snobelen, the former Minister of Education and Training of the current government, eloquently explained this uniqueness: "We need to invent a crisis." To his credit he kept his promise, delivering an unwanted, manufactured, artificial crisis through Bills 104 and 160. Ironically, the immediate victims of this crisis will be none other than Ontario students, their parents and their dedicated, professional teachers.

Bill 160, if you look at the first reading version which I have here, contains 219 pages. When I showed the bill to a friend, she commented: "This is so large." Yes, the bill is large. But Bill 160 cannot be treated as a single item. What is not stated in Bill 160 can be found in Bill 104. In fact, Bill 160 finishes the job started by Bill 104. As a result, considering the implications of Bill 160, it is not large, but rather it is massive.

Massive projects can make massive mistakes. If mistakes are to be minimized, all concerned parties of an issue must be seriously consulted. On the contrary, the current government has been using "We will stay on course" rhetoric as an excuse for not listening to anyone who contradicts the government's position or even people

who are interested in voicing constructive criticism. For a change, could you please listen to students, parents and teachers? They are not your enemies.

If you realized that people who voice their concerns over Bill 160 are not your enemies, you would stop spending taxpayers' money to spread propaganda messages through various media outlets to cover up the contradictions of the bill. Even if you feel that people who voice their concerns over Bill 160 are not your enemies, you may find difficulties in backing down from the general legislative theme of centralization of power in Queen's Park which is so dear to your government's ideology. You may feel it is absolutely essential that Bill 160 does not contradict the overall legislative theme of centralization of power, but please make an exception. Please withdraw the bill. It does not make sense. If you think education is too expensive, then try ignorance.

I am sure that you will hear a well-founded variety of reasons for requesting the withdrawal of the bill. However, I am not going to address all aspects of the bill, but I am focusing my oral presentation today on the need to protect the marginalized people in schools and in society at large.

The preamble of Bill 160 states that it is structured to "reform the education system." Surely the Ontario education system requires some changes. However, the extent and the nature of reforms which are tabled through Bill 160 will deform the education system to the extent that it will not provide responsive learning environments for all students, disseminate socially responsible values or produce equitable employment. In other words, in order to be just and equitable, the Ontario education system must provide responsive learning environments for all students, disseminate socially responsible values and produce equitable employment.

I go back to my first theme: provider of responsive learning environments for all students. The bill gives the Minister of Education the right to control prep time and class size. In light of the current government's confrontational approach with teachers, I'm inclined to believe that the threats of prep time reduction and the increase in classroom size are not mere empty words. On the one hand, the reduction of prep time will result in inadequate time for teachers to design appropriate lessons addressing the diversity of student needs. Students who need extra help, students with alternative learning styles, students with special education needs and students who are recent immigrants with additional language requirements will suffer the most. On the other hand, any increase in classroom size will create similar problems.

My second item: disseminator of socially responsible values. Although certain planning initiatives can be centralized, any massive centralization of planning means making local issues invisible to a degree in school administration and curriculum content. In addition, considering actions such as the slashing of powers of local school board trustees; the patronage appointments to the Education Improvement Commission, an executive body unaccountable to the public to design the future of



Ontario's education system; and the failed attempt to remove principals and vice-principals from local teacher union units, I am concerned about the lack of accountability in your government's education agenda to the communities in which schools are located. In other words, the bill should safeguard, respect and preserve socially responsible values central to the communities in which schools are located. If the school system fails to disseminate socially responsible values, the students graduating through Ontario schools will be useful neither to their local communities nor to Ontario at large.

**1600**

Third: producer of equitable employment. The reduction of prep time and the increase of classroom size have ramifications on the ability of school boards to remain as producers of equitable employment to traditionally under-represented people in the teaching profession in Ontario. They are women, visible minorities, first nations peoples and people with disabilities. In recent years, the Ontario education system has made some attempts to address this employment inequality. Any reduction of prep time or any increase of classroom size will result in the application of the "last come, first out" principle in the laying off of teachers. In other words, whether it is intentional or unintentional, the final result is the increase of under-representation of the abovementioned traditionally under-represented people in the Ontario teaching profession.

Therefore, in my conclusion, systemic education inequality is a social reality in Canada that is faced on a daily basis by many living in Ontario. It took decades of public policy measures to enable Ontarians to enjoy the present level of some equality in standards. The current government arguments of downsizing, rightsizing and reorganization have failed to address equity concerns. Please do not make equity concerns disappear into obscurity. Please reconsider the government position on Bill 160 because the bill is a recipe for marginalization.

**The Chair:** Thank you, sir. There is one minute per caucus only starting with the opposition.

**Mrs McLeod:** I wonder, given the fact that we just have a minute, if you would be able to expand a little bit more on the marginalization of those individuals in the education system who you think are going to be further disadvantaged by this government's exercise of powers under this bill.

**Mr Suriya:** Do you mean the employment terms or the student terms?

**Mrs McLeod:** Schooling terms.

**Mr Suriya:** One of the problems when you teach in a classroom is that you realize that especially the special education students and also new immigrants, for example, need extra attention. When the classroom size increases, one of the problems is that teachers don't have time to prepare their lessons to take care of the unique, individual particularities of each and every student. What I observed in the schools — my opinion, at least, and I have taught in the schools — is that prep time is the time when we usually talk to the students and address their problems.

If they have a welfare concern we ask teachers. We are not just people adding one plus one equals two. We are social service agents too so we solve those problems and we will not have enough time. Especially as young teachers we have to do extracurricular activities after school, which means we don't have enough time to do a whole of things, so prep time reduction and class size increases mean one thing or another gives way. It's not a race issue per se, because race, class, gender and other series of things come into play.

**The Chair:** Excuse me. I have to cut you off there because we only have this one-minute period.

**Mr Wildman:** I want to thank you for your presentation. You talked about centralization of the system and how that contributes to marginalization. You gave us some examples, but do you have any particular ideas about why a government that says it wants to get services closer to the people would be centralizing education at Queen's Park?

**Mr Suriya:** I remember the days when I used to live in England. I have seen this idea. This is neo-Thatcherism, in my opinion. One of the problems, I know that if I have a problem with a principal or a school bus driver or what not, I would call the local school board trustee, who is more effective in handling local-level situations. I think with all the government ideologies — you can't understand this Bill 160 by itself. If you get all the legislation bills introduced into the Legislature they make one whole bill. All their themes are centralization of power. So that itself is synthesized in this bill. That's part of the ideology of the —

**The Chair:** I know it's impossible to answer in one minute, but again I'll have to cut you off.

**Mr Smith:** I just want to be clear. You're a teacher yourself are you?

**Mr Suriya:** No I'm not teaching now.

**Mr Smith:** You're not a teacher. With respect to your last paragraph, where you raise issues around equity concerns — in part Bill 160 brings a new funding scenario for all students — would you support a scenario that provides a fair and balanced funding model for all students in this province?

**Mr Suriya:** The point is that I don't like to talk about policies in abstract terms. When I read this bill I have no clue what it's saying. You have to give me a solid example, solid answers, then I'll answer that question. All my answers are subject to conditions. That's reality. I live in the real world. As a minority that formula, this formula do not mean anything to me. If you give a solid example, I'll give a solid answer.

**The Chair:** Thank you very much for your presentation.

**Mr Suriya:** Thanks a lot for listening to me.

**The Chair:** Not at all. It was very thoughtful.

KATHLEEN PINTO

**The Chair:** Our next presentation is Kathleen Pinto. Welcome, Ms Pinto. I ask you to proceed.



**Mrs Kathleen Pinto:** Thank you for the opportunity to present my opinions on Bill 160. I am appearing as a parent of five children who are currently in grades 12, 11, 9, 6 and 3.

During the past 14 years my children have accumulated approximately 50 years, collectively, of educational experience. Some of those years have been very positive. We have been privileged to work with classroom teachers who have accurately recognized our children's strengths and weaknesses and enabled them to develop both intellectually and emotionally. Our children have benefited from teachers' and principals' generous contributions to extra-curricular activities in coaching sports and in running clubs and competitions. There have been years in which the children have been regularly assigned homework and tests and had these marked and returned in a timely fashion.

When our oldest child was in grade 1 her school librarian, a certified teacher, ran a three-month enrichment program which introduced every child in the class to the computer. We as parents were very optimistic about the possibilities of public education. But that was our one and only experience with such a program in the 50 years of collective experience mentioned above. What enabled one teacher to implement and run such a program where no other librarian has been able to do so? What does a school board or its library resources department learn from "best practices" of such outstanding teachers?

There have also, sadly, been years where problems with a child's performance identified by us parents have been dismissed or not responded to by our teaching professionals, who have insisted there's no real problem because children develop at different rates. Believe me, it is extremely difficult as a parent to watch a child struggle in a system which is either unresponsive to or dismissive of a plea for help.

We have tried to work cooperatively with the school system. We have raised our concerns with classroom teachers, we have consulted the principal when the classroom teachers have not responded and we have asked our supervisory officers and school trustees to deal with the problems identified. We have appeared as delegations at our school board meetings to identify local school issues and ask for help. We have actively participated in school associations to help contribute to building a strong local school. Our general experience, unfortunately, is that we and many other parents who identify problems or request that alternatives be considered within the system are met with hostility, denial and indifference by our school board employees.

In order to support our teachers' classroom efforts, we have requested curriculum outlines for our children at the beginning of each school year. We have also requested lists of texts and approved reference materials. These requests have been responded to very infrequently.

We have asked that we be provided with the names of supply teachers when our children's classroom teachers are away, but this request has been ignored. Now we are being subjected to fearmongering from the teachers' fed-

erations, which insist that changes to the act will mean we won't know who is coming into the schools to teach our children. With all due respect, we can't miss what we've never had.

#### 1610

We are still waiting to be provided with our local school's results from the grade 3 tests administered in spring 1997. We are told that the education quality assessment office is responsible for the delay. When our daughter wrote the grade 9 provincial English test, the infamous Philadelphia Cream Cheese test, four years ago, we were promised that the results would be shared with us, but despite our repeated requests for this information it was never made available.

We know that the teaching profession is made up of individuals with a wide range of abilities. Unfortunately we also know that where a teacher is experiencing problems there is no effective mechanism in the current system to enable a principal or a board to help the teacher improve his or her performance. That this situation is tolerated when the education of young and impressionable children is involved is very unconscionable.

We have asked several times at our board level why curriculum is being written in every board across the province rather than centrally by the province. That question has never been satisfactorily answered. We know also that there is a great disparity in spending per pupil from board to board across the province, but we believe that a public education system should provide equal funding to all its students.

Year after year it is reported that Canada as a whole does poorly on international tests, and to add insult to injury Ontario, which spends more per capita than any other province, always ranks near the bottom of the Canadian provinces in performance, and that is true.

School associations traditionally have been treated primarily as fund-raisers by most schools. Parents' attempts to have any input with respect to curriculum or other educational issues have been discouraged by the principals and the teacher representatives. Although school councils were mandated by the provincial government to provide a forum for input in the areas of school year calendar, to act in an advisory capacity with respect to principal selection and other responsibilities, our school boards passively resisted their implementation. Principals encouraged the rollover of the school associations into the school council, thereby undermining the government's attempts to provide options for parental and community involvement.

That the teachers' federations have a monopoly on education in Ontario cannot be disputed. The boards of education are staffed at senior levels primarily by employees who were members of the federations; principals and vice-principals remain in the bargaining units of the federations. There are very serious conflict-of-interest problems which must be addressed.

Pupil-teacher ratios quoted by school boards do not sound unreasonable at 19 or 17 to 1, but we all know that most classrooms over the last few years have been finding



teachers struggling to teach over 30 children. Teachers tell me that their classes effectively contain an extra three or four children beyond what their registers show because children with special needs, who are listed on different registers, still remain in the classroom for large parts of the day. Pupil-teacher ratios are diluted by the inclusion on the teachers' side of service-type functions such as guidance, music, family studies, industrial arts, core French and library, but none of these teachers has responsibility for a full class for a full day. Special education teachers for gifted children do not teach five days a week in our board, vice-principals often do not teach and principals rarely teach. Considering that all these specialists are included in the pupil-teacher ratio computation, it isn't hard to see why class size is so much larger than pupil-teacher ratios would suggest.

There has recently been an enormous public outcry on behalf of the teachers' federations that allowing differentiated staffing — that is the use of non-certified instructors in education — will inevitably lead to the destruction of public education. One of my children has been taught by an absolutely outstanding music instructor who is not certified and the quality of his program far surpasses that offered by other certified instructors.

Is it so unreasonable to expect that our school libraries have aspects of their operations handled by library technicians, perhaps on a part-time basis? Is it impossible to expect that teachers who are now full-time librarians could conceivably be used as part-time librarians or be responsible for more than one school? Industrial arts and family studies could be handled by non-certified instructors at a lower cost to the system. Guidance counsellors need not be certified teachers to make a legitimate contribution to the system.

What we must do is ensure that the legislation guarantees the teaching of strictly academic core subjects such as English, mathematics, science, history and geography. The money being spent in staffing our schools could then be redirected within the system to put more funds directly into the classroom. This would permit a reduction in class sizes without impairing our children's education.

Is it any wonder that we parents are sceptical about the way the school boards have delivered public education in Ontario? We realize full well that the school boards have surrendered decision-making to the federations. Witness the latest threats of an illegal public strike. Did the boards that employ these federation members speak out strongly and publicly against the strike to their employees? No, they didn't. In fact, they were all too ready to inform their clients, the parents and students, that schools will shut down entirely in the event of a strike. The boards, as employers, have failed to fulfil their responsibility to discourage this strike.

We taxpayers and parents have waited too long and too patiently for boards of education to acknowledge and deal with the many problems described above and we have done so at the expense of our children as well as the classroom teachers who work so hard to provide the basics. The boards have failed to exercise their responsibility to

provide our children with high-quality education. It's time to change the system.

Due to the lack of accountability of our educators with respect to the problems mentioned above, I have become an active member of the Organization for Quality Education. I believe that our public education system is in urgent need of reform to ensure that our children emerge as strong and effective citizens as we enter the new millennium.

Bill 160 is not the solution to all the problems in Ontario's education system, but it is an opportunity to correct some of the serious imbalances. The professional development days mechanism should be tightened up to support focus on the new curriculum, on testing and reporting initiatives as recommended by the government. The setting of class size guidelines should permit focus on cost-cutting outside the classroom. The use of differently qualified instructors should result in cost savings which can then be redirected to our classrooms, where the core academic subjects of English, math, science, history and geography are taught. Perhaps programs such as instrumental music could then be introduced at a lower grade level.

Parents look forward to a better definition of the role of the school council and welcome the opportunity to become more involved in the local decision-making of their schools. Hopefully, school councils will become respected partners in every school's operations.

We parents do not naively believe that the proposed changes will occur without difficulty, but we will be vigilant in ensuring that our children's interests are protected during this time of transition. Thank you for your attention.

**The Chair:** Thank you for your presentation, Mrs Pinto. Our time has elapsed.

CANADIAN UNION OF  
PUBLIC EMPLOYEES  
ONTARIO DIVISION

**The Chair:** Our next presentation will be CUPE, Ontario Division. Welcome, Mr Ryan. If others are to take part in the presentation, I ask you to identify them down the road. Please proceed.

**Mr Sid Ryan:** With me are Karen McNama, who is our education coordinator in Ontario; and Jim Woodward, who is the legislative liaison to Queen's Park. I'm Sid Ryan, president of CUPE Ontario. On behalf of CUPE's 180,000 members in Ontario, and in particular the 40,000 school board workers we represent in this province, I would like to thank you for this opportunity to make this presentation.

Let me begin by saying that the timing of these hearings is indeed ominous. I believe I can say without argument that it is precisely because of this legislation that Ontario is today on the verge of the first-ever province-wide teachers' strike. This single, indisputable fact is proof that opposition to Bill 160 is sweeping and it is community-wide.



Teachers, school board workers, parents, parents' associations and school boards themselves all are united in their belief that this bill has nothing to do with improving quality in education and everything to do with this provincial government's attempt to seize control over virtually every aspect of public education in Ontario. The implications of this bill for Ontario's teachers will no doubt be covered at length in presentations from our sister unions, so we will confine our comments to simply stating to the committee, as we have stated publicly, that CUPE is solidly united with the teacher unions in defence of quality public education.

To demonstrate this we have asked our education sector workers, and there are 40,000 of them, to respect teachers' picket lines should they be forced to take job action to fight this legislation. That is an unprecedented move in this province. No union has ever asked 40,000 people to support another union. I want to make it perfectly clear that if this government thinks they're going to bring in back-to-work legislation to put teachers back to work, I would ask you to think twice about it, because you will end up escalating the conflict beyond the school teachers, beyond CUPE to other unions both in the private sector and in the public sector. I want to make it absolutely clear: The labour movement is solidly behind the school teachers of this province, and this government will back down on Bill 160 and gut the parts of this bill that are most offensive to school teachers in the public education system in this province.

1620

Let me now turn to the underlying objectives of this bill. Our analysis of Bill 160 concludes they are fourfold:

- (1) Pulling up to \$1 billion out of the system;
- (2) Downsizing public education in dramatic fashion by merging school boards and gutting our system of elected trustees;
- (3) Laying the groundwork for full-scale privatization, so-called outsourcing of school board services and jobs;
- (4) Centralizing control and funding of school boards by removing control of education spending and taxation from school board trustees.

Let me address these issues directly. On funding cuts to education, this government was elected on a platform which stated quite clearly that not one single penny would be cut from the school system, yet to date you have cut hundreds of millions of dollars directly from education while slashing funding for junior kindergarten and special-needs classes and much more.

Your now demoted former education minister is on record as saying an additional \$1 billion in cuts would be needed. Your new minister is now trying to distance himself from this statement. While Ontarians may be looking for sensible, progressive changes to the education system, they are not looking for, nor do you have a mandate for, wholesale gutting of a public education system which belongs to the people of this province.

On merging school boards and virtually dismantling our system of elected accountable trustees, let me remind the committee members that as we speak, communities

across this province are actually having trouble finding candidates to even run for school board trustee positions. This is because your government has made them virtually meaningless positions. As a result, on November 10, when Ontarians go to the polls in municipal and school board elections, they will effectively be witnessing the death of democracy in their school boards. I suspect this may have been your intention all along.

On the question of school funding and taxation, again this bill gives the minister complete control of the method of calculating what individual boards should get, yet it provides no further details on how this will be done. Surely, given its dismal record on consultation thus far, this government does not expect the people of Ontario to simply trust them on the critical issue of school board funding. In fact, we have not seen any sign of regulations for this piece of legislation or any other dealing with education that this government has brought in in the last number of months.

Equally disturbing on the question of taxation powers, the bill states that the minister is now in charge of setting tax rates, wresting control away from local taxpayers on how much they pay in school taxes and how much money their boards receive.

Probably most disturbing to us, as the province's largest union, is the way this bill opens the door to widespread privatization and outsourcing of publicly funded education. Let me state categorically that CUPE is adamantly opposed to any such move and that we will fight to ensure that public services in this province are delivered by public employees and not turned over to private companies whose only interest is in making a profit.

While I know this may come as a shock to some of the Reformers in your caucus, our education system is not for sale in Ontario. This bill is the government's third attempt at the deunionization of the school board sector, the first two attempts being Bill 104, which tried to mandate outsourcing of non-instructional work, and Bill 136, which tried to eliminate collective bargaining and the right to strike for school board workers. Education workers fought successfully for amendments to Bill 104 and Bill 136. They knew the government's attack on unionized school board workers was a direct threat to the quality of education.

If Bill 160 is enacted as is, school maintenance staff and custodians, cleaners, administrative and clerical staff, educational assistants, foodservice workers, technicians, bus drivers, library technicians, ESL and adult education instructors and other school support staff who are now public employees could soon be working for half the wages they currently earn. Those who may still have jobs will see their working conditions altered dramatically.

It is not only morally unacceptable for a provincial government to be promoting such an agenda, it will also mean more bad news for struggling local economies across Ontario which are still trying to recover from years of recession and job loss. This province needs good jobs, not low-wage jobs, not ServiceMaster jobs that pay between \$6 and \$8 per hour. While this may be the type of



Ontario the Tories envision, where workers are in a race to the bottom, we reject this vision outright.

Is this government worried about the impact funding cuts are having on the quality of education? We think not, since these are the very cuts which will pave the way for privatization, whether through contracting out of non-instructional services, charter schools, lease-back schools or outright diversion of funds to private schools. There is little doubt that this government believes a privatized education system would be a better one.

The reality is that the vast majority of Ontarians disagree with them, and that's been borne out in the last number of days with the Tories dropping to 32% in the polls, which has been a great joy, I think, to most people in Ontario. Beyond that, don't take my word for it. An Angus Reid survey conducted in June of this year for the management consulting firm Ernst and Young concluded that 70% of Ontarians are opposed to contracting out public services to the private sector.

In conclusion, the outcome of this legislation, Bill 160, will determine whether the high-quality education system we now have in Ontario will be able to continue to meet the needs of all Ontarians or whether the provincial government will get the control it wants in order to use the system to achieve its more narrow objectives: tax breaks for the wealthiest people in the province.

Bill 160 is not about improving the quality of education. It is about this provincial government taking control of education away from local communities, and no amount of Orwellian doublespeak will convince the people of Ontario otherwise.

Our recommendation to this committee is to stop the teacher bashing and the school board worker bashing, scrap this legislation and begin a process of meaningful dialogue with parents, school boards, students, school board workers and teachers about the real changes that are needed to our education system.

**The Chair:** Mr Ryan, the time has elapsed. I thank you very much for your presentation.

**Mr Smith:** Mr Chair, if I could, I think it would be appropriate for the committee to receive some information, in light of Mr Ryan's suggestion that it's difficult to find candidates running. Just so the committee knows, there were 627 —

**The Chair:** Excuse me, Mr Smith, our time has elapsed. How are you putting this information in?

**Mr Smith:** I'm going to file the information and table it with you, sir, so the committee can see that the suggestions that were presented are clearly not factual. I would like to make that information available to the committee members.

**The Chair:** That's fine. You have a perfect right to table it. I thank you very much, Mr Ryan.

**Ms Lankin:** On a point of order, Mr Chair: I just wondered, as the parliamentary assistant tables that information, if he would also take the time to table along with that details on the backgrounds of the individuals: for example, how many of them are members of Conservative riding

associations. As I understand, the Tories have been on a drive to get people's names on the ballots.

**The Chair:** That's not a proper point of order.

**Mrs McLeod:** Mr Chairman, on a point of order and as a question: I would ask the parliamentary assistant either to provide the response today or to pursue it with the ministry, but I would like some clarification of the sections of Bill 160 that apply to non-teaching personnel employed by school boards. It would be my understanding that the bill sets out that as of January 1, boards that are being amalgamated, existing contracts for all employees — teachers and non-teaching employees — continue on in the new board but that all those contracts expire January 1 and have to be renegotiated by September 1. If there's any difference between teaching and non-teaching personnel in that regard, I would appreciate receiving that information.

Second, if I'm correct in assuming that all contracts expire and have to be renegotiated for both teaching and non-teaching personnel, I would like to raise the question of why these contracts have to be declared null and void and have to be renegotiated both for boards that are amalgamating and boards that are not being amalgamated.

**The Chair:** Thank you, Mrs McLeod.

**Ms Lankin:** Chair, a question of clarification: I was wondering if you could clarify for me, is the reason that the Canadian Union of Public Employees, which represents 40,000 education sector workers, has only been given 10 minutes because, unlike the Ontario Home Builders' Association or the chambers of commerce or whatever, they weren't on the minister's list?

**The Chair:** Or the amended list that was requested by the opposition. There were a few names added, if I recall, two or three.

1630

**Ms Lankin:** That's why they only got 10 minutes.

**The Chair:** Yes, that's correct.

**Mr Wildman:** We're not only moving to a two-tiered education system; we're in a two-tiered presentation system.

**The Chair:** Thank you very much again, Mr Ryan, and we'll move on to Mr George Christoff.

**Mrs McLeod:** Mr Chairman, I really can't let the last statement that you made stand.

**The Chair:** I'm sorry; was it not correct?

**Mrs McLeod:** No, it was not correct, as you'll realize. After an hour and a half of attempting to negotiate for an improved process of something better than the amendment the government was presenting, we had a 10-minute break between the subcommittee report where the original minister's list was presented and the committee report where an amended minister's list was presented. We had no input as opposition members into that amended list.

The reason there were some three additional groups added was because in the subcommittee meeting I had expressed, as had Mr Wildman, our very real concern that there were very few parent groups represented, that there were no principals' organizations represented and specifically that the Ontario Education Alliance was not represented. As a result of that, there were three additional

slots created, but we had no input into that process of amendment. Had we had an opportunity to have some real input into that list, I can assure you it would have been considerably longer than the list that was presented to the committee.

**The Chair:** I didn't mean to mislead. For the purpose of the record, I recall in the meeting certain additions were requested and those appear. That's all I recall.

GEORGE CHRISTOFF

**The Chair:** Mr Christoff, please proceed.

**Mr George Christoff:** My name is George Christoff. As a concerned resident, I'm speaking about the education of my children. I've heard a number of presentations over the last couple of hours and only a couple of times has that really come up. The previous speaker spoke about job action. I don't think a word came up once about the education of my children.

I'm here today representing my children, who are both enrolled in the Metropolitan Separate School Board. My expertise for being here? I'm a concerned citizen who's involved in numerous, and I mean numerous, volunteer public issues. I'm on the board of directors of a community centre that deals with day care and a parent-child resource centre and deals with full-fee parents and subsidized parents. I'm well aware of what happens in younger children. I'm a board member of a safety village that is to be directed specifically for elementary school children's safety. I'm on the advisory council and chair the facilities committee of an elementary school. I'm the vice-chairman of a school advisory council of a secondary school. So I think I have a little bit of knowledge.

My concerns on Bill 160? I agree with previous speakers. The government has not done a good job of putting facts forward. I'm very concerned about my children because last week I was requested to authorize at a secondary school a non-factual piece of information to be sent out. It was faxed to me from the OSSTF and it was to be sent out under the guise of an advisory council. It wasn't even factual. I have to say I've been at three meetings in the last two weeks and I've heard a lot of union rhetoric from teachers and the previous speaker. As far as I'm concerned, there is nothing factual on that side either. I'm sitting here as a concerned parent for my children and there are no facts coming from either side.

I'm a professional architect. I will relate to the Ontario building code. The Ontario building code is about this thick and regulates construction in Ontario. It has a compendium with regulations that get attached to it. It is about this thick, in a hard binder. It affects everything that's constructed in Ontario. But there wasn't this degree of involvement and everybody wasn't up in arms about the act.

As far as I'm aware, most regulations by this government, the previous NDP government and the previous Liberal government before that, all pieces of legislation came forward in an act. Large, comprehensive ones are debated and have public hearings. That's why we're here.

And most of those large acts have regulations which are brought in by the respective ministry after the fact.

So yes, I have a concern sitting here. Parent-teacher ratios, the size of the classrooms are not addressed in this legislation. I don't think I've ever seen a piece of legislation come forward where somebody's gotten to the size of the little thing in the floor when you're dealing with this entire building, just to use an analogy. How anybody could deal with a parent-teacher ratio or the size of a classroom in a piece of legislation — we would be lucky to get this passed in the year 2000.

I'm a taxpayer. I pay a lot of federal taxes in one form or another. I pay a lot of provincial taxes. I pay a lot of school board taxes, or I still do right now. There is too much administration and, frankly, I'm fed up with paying. I have to commend this bill for finally starting to address a lot of the inefficiencies in the education system, and I'll tell you, there are a lot in there.

I fully support teachers and I fully believe in teachers, but boy, there is a lot of administrative stuff and there are a lot of non-teaching positions that affect the quality of education in the classroom and affect the quality of education my children are receiving. If I can give you an analogy from Australia, I am worried about where our system is going because the Australian public education system has become so convoluted, so large and so inefficient that the only way to teach children there is to put them in private school.

As a professional architect, I have to work about 2,000 hours a year to gain a decent wage. A typical policeman has to work about approximately 1,800 and puts his life on the line. A typical teacher in a classroom works about 1,000, and you wonder where the inefficiencies come from?

Finally, there are a lot of details that have not been worked out, and I reinforce that, but we must move forward.

I will give you one item specifically in the bill that does disturb me. In the definitions in the front, and it was passed by the previous government, are school advisory councils. Oddly enough, in the front of this bill there's no definition of a school advisory council. It defines everything else under the sun but not the school advisory council.

The reason I bring that up is that I am involved in two and I have very serious reservations as to how the school advisory councils work. In one of the ones I am currently involved with, out of 17 members only five are true elected parents with children in the school. Six of the 17 are direct, known board employees and another one or two have spouses who are employed by the board. The elected parents cannot move forward. In other words, we are held up to ransom by this particular board, the principal and the union. They decide what to do. Is that fair?

The last thing I'd like to say is that everything I've seen in the last two weeks all starts with the first sentence, "Education is a responsibility, not a business." I agree it's a responsibility. I just hope the teachers take that seriously, do not use my children as pawns and do not go out



on strike. However, should that happen — and God forbid, I hope it does not, for all our sakes — then I would be the first to urge the government to stand up to it. I don't care if the whole province walks out. I will put up with however long it takes to get education back on the right track. Therefore, I support Bill 160 in principle.

**The Chair:** Mr Christoff, your time has elapsed. On behalf of the committee, I thank you for taking the trouble to assist us here today.

We had the one blank. Kathryn Blackett? I don't see her in the room. We will proceed to the next one. We can come back in the event that she appears.

1640

### EDUCATORS' ASSOCIATION FOR QUALITY EDUCATION

**The Chair:** Barry Kavanagh, please take a seat, make yourself comfortable and proceed.

**Mr Barry Kavanagh:** Thank you very much for the opportunity of presenting a paper. I believe it's being distributed now.

My name is Barry Kavanagh. I'm co-chair of the Educators' Association for Quality Education. I have a permanent residence in Niagara-on-the-Lake, the second-prettiest town in the world, apparently, and the prettiest town in Canada.

Our organization was formed in 1992. Its members come from all levels of education. We have no ties to unions, faculty associations or anything else. Our only concern is the quality of education in the province and how to improve it.

We see Bill 160 as an effort by the government to re-take control of provincial education in order to provide the taxpayers and the students with education leadership and accountability. We support such a government initiative as shown in Bill 160, although we would regret losing prep time, especially in this computer age, when extra prep time is needed by many teachers.

We title our paper Bill 160 — A Modest Step Toward Effective Education, because once it is passed, either as it's written or modified, there is still much to be done. I would ask those of you with a copy of the presentation to look on page 1. We have listed five steps we feel are necessary to achieve effective education. The province of Ontario has not achieved any one of these steps in its entirety.

It has started on a well-defined and relevant curriculum. We've managed, from what I hear, to now have two subjects done, and at this rate it will be the year 2050 before there's ever a curriculum in this province. I think the bureaucracy is dragging its feet.

We recognize province-wide testing and applaud the previous government for implementing it. It's necessary, and the follow-up reporting that we're still waiting for in the last testing is also necessary. Something that refers to this that has never happened in Ontario is, what do you do with the students who are not achieving the results they

should be? The present bureaucracy socially promotes them to the next level of education, a level for which they are not prepared and where further failure is guaranteed. The present bureaucracy condemns the student to a lifetime in school of further failure.

Item 3 is effective teacher training and meaningful credentials. We don't see that the province has effective teacher training at all. The faculties of education are still exclusively pushing holistic techniques. Project Follow Through, which is American research, the largest research project ever undertaken, has proven that these holistic techniques don't work. At the same time, it showed that techniques such as direct instruction, techniques that most high school teachers and most college teachers use, are effective, and proven effective. Presently in Ontario at the elementary level and at the faculties of education it's holistic techniques that are being pushed exclusively.

Item 4 is government control of the education system. We see that as what the present government's Bill 160 is trying to achieve.

The last one refers to the implementation of effective education policies, which we believe requires a bureaucracy primarily dedicated to academic quality and not to the implementation of social policies. We believe the present bureaucracy in Ontario, which is located at 900 Bay, the local board offices and the post-secondary institutions, is not dedicated to academic excellence. There's no indication they are.

As an indication of the problem, on page 7, when you get a chance to get there, there's a reference to the UK, where in 1988 they legislated a national curriculum and national testing. Those of us in the rest of the world who were also looking for effective education were extremely jealous and envious of those people who had moved ahead so quickly, but on the Internet in recent days there's a lot of controversy; a lot of observers say the UK has not moved one inch towards effective education in the 10 years since they've legislated both the curriculum and the testing. The problem again is the bureaucracy, who refuse to implement the government's policies. We see this as the major problem in Ontario.

The problem, which we've defined on page 2, is the level of effectiveness of education. International testing puts us at a fairly low level; national testing puts us at a mediocre level. The quality isn't there and the cost of education, 70% of the tax dollar going into education, is reported as one of the highest anywhere in the world. We're not getting value for our dollar.

What caused the problems? Traditional wisdom indicates it was the teachers; the government; the parents who don't read to their children; the immigrants who somehow or other have sabotaged the system; and the media who distort the results of international testing. We feel these are groundless.

The teachers have been forced by the bureaucracy to implement experimental and untested social policies in the classroom almost on an annual basis here in Ontario. New fads had to be introduced even before existing fads could be evaluated. We consider this to be pedagogic insanity.



We wonder if anyone remembers how many versions of the Common Curriculum they tried to foist on the students.

Teachers have been blamed for the mess in education, and never before have teachers been so demoralized. If Bill 160 is weak in one area, it is that the government has not indicated in the bill that it is aware of who and what is responsible for the mess that education seems to be in. Although teachers are the easy target, they are as much the victims of our dreadful education system as are the students and the taxpayers.

The source of our problems can be found in the bureaucracy I've mentioned. They've continually failed to admit that their social training experiences don't work and continue with them despite solid research-based studies that prove them to be a failure. The teaching of reading is a good example. California, which introduced North America to the whole-language approach to reading, recently found that grade 4 students fell from among the best in the USA to the worst, beating only Guam and Louisiana, two areas that have extremely weak systems.

The founder of the whole-language approach admitted that the experiment was a failure. In response, direct instruction using phonics for reading was legislated. There are two bills in the California legislature. Legislation was required because the bureaucracy and the convert teachers refused to cooperate, defending whole-language as if they were religious fanatics. A gentleman by the name of Bill Honig, who was a former superintendent of education in California, the man who spearheaded the original holistic program in 1986, says now that watching schools teaching reading using whole-language techniques is like watching doctors bleed their patients.

We support using qualified people in schools whether they have teaching credentials or not. We believe early childhood education people, those with diplomas in that field, can be used in kindergarten and junior kindergarten, especially since these levels of education don't include any academics. If the province moves, as it should, to introduce academics to the kindergarten level, that should be reviewed.

We see guidance people with industry contacts and real work experience as better able to help most of the students who go directly to work than teachers with very little outside experience. We also agree that people with library diplomas or degrees can be better utilized in the libraries than people with teachers' credentials.

The unions and the newspapers complain that those without teaching credentials are unqualified. We question just what are these credentials that the teachers presently have. Essentially, it's a four-year degree in any field and eight months at a faculty of education, where they have three to four weeks of practice teaching. They then have exposure to holistic techniques that have been demonstrated not to be effective. Direct instruction, which has proven to be the most effective technique, is essentially banished in Ontario at the elementary level and at the faculties of education.

We feel the primary credential for any teacher is a mastery of the knowledge of the subject matter for which

he is responsible. At the elementary level, we consider that to be the range of subjects. We feel a bachelor of education program, instead of being four years of an unrelated degree with eight months in the faculty of education, should be four years in length. It should include matters such as educational philosophy and a range of effective teaching techniques, including direct instruction; it should include broadening subjects; it should include exposure to math, science, English, history, geography and social science, all the core element subjects that are included at the elementary level. We feel this would effectively prepare teachers for the profession and give them credentials that are in fact relevant. It would also save tax dollars by reducing the time at university by one or two years — they're proposing an extra year — for each individual.

**1650**

**The Chair:** You only have about 30 seconds left, Mr Kavanagh.

**Mr Kavanagh:** Okay. I'm just about done. Thank you.

The problem, once again, in Ontario's education is a Teflon-coated bureaucracy that refuses to use effective teaching techniques in elementary schools and in the faculties of education. They're now sitting back, no doubt, smiling as the unions and government prepare for battle, a battle that wouldn't be taking place were it not for the long-time bureaucratic bungling in administrative and pedagogic matters.

One final word not included in the brief but as an afterthought: We urge the government to give serious consideration to splitting the ministry back to education and colleges and universities. The problems at all levels are too extensive for one minister and one deputy minister to handle effectively.

**The Chair:** Thank you very much for your presentation, Mr Kavanagh.

#### KATHRYN BLACKETT

**The Chair:** Our next presentation is Kathryn Blackett, our volunteer. Ms Blackett, could you please come up to the podium, take a seat and proceed with your presentation.

**Ms Kathryn Blackett:** I'm sorry this is a hastily prepared submission.

**The Chair:** We understand. It's very good of you to take the time to do that.

**Ms Blackett:** My name is Kathryn Blackett. I have lived in Toronto all of my life. I am a homeowner and have three children in the public school system here. I have taken this slot because I feel the great weight of all these people who applied and were not given a hearing. The idea that this slot would go unfilled seemed a travesty in view of this. I really think this is just an appalling lack of organization and abrogation of democratic procedure.

Unfortunately, this is no more a travesty than this whole process appears to parents across the province. This government, which has proclaimed so loudly and for so long that they are listening to parent, have shut us out,



have shown their contempt for us by favouring business groups over the thousand individuals who applied. I feel I represent the 103 parents from Clinton Street public school who requested speaker status and were not called. Most of all, I represent the interests of my children, the true stakeholders, who are not consulted in this process and are the innocent victims of this government's attack on the education system of Ontario.

I have been on the phone over the last week. I have been talking to parents out of town, in case you want to characterize this as a local protest. I don't know about seven to one calls in favour of your government's actions, but the parents I have talked to are deeply, deeply concerned and perhaps antagonized by the deep cuts they have felt in their schools, the eroding conditions, the lack of materials, the ridiculously overcrowded classes, the loss of support services and special ed programs.

They're antagonized by three aspects of the bill. One is class size. My daughter Claire back there, who is shy, is in a grade 6 class with 36 students. Apparently this class is counted officially as 34; the two special needs children are not counted, though there is no education assistant there for them. This is called an integrated class of 34. Her teacher is heroic. I cannot fault him for anything. The children like and respect him. He is creative. But, frankly, there are too many children in the classroom. Bill 160 does not address this problem.

Parents don't want a cap figure either that is not a realistic number; that is, perhaps because it's integrated or because the special needs class of four down the hall has been averaged into the number. Parents don't want to see libraries disappear to pay for class caps either.

Another deep concern is teacher qualifications. We want our teachers to be qualified and properly trained in the teaching of children. We do not want low-paid babysitters. This is a very serious concern for us and democracy. We decry what we have understood as the principles of democratic process being railroaded. We knew our trustees; we do not know people in the cabinet, nor do we think for one minute that our concerns will be listened to. We have tried to speak, for instance, with Mr Snobelen for over 12 months, to no avail. We have made countless attempts. I know PTAs all over Toronto that have asked to speak to him and have not been given the courtesy of an answer. So why you think parents should be happy and comfortable with even less contact with the power-making and decision-making machines of education in this province I don't know.

Parents also decry the way this government has attempted to vilify teachers and characterize them as self-interested. We entrust the care and the teaching of our children to these people and know them to be hard-working, caring and generous with their time. They're dedicated and professional, and parents resent the government's attempts to drive a wedge between us and teachers.

By trade I'm an editor, and as an editor I have a few problems with your bill's name. As far as I can tell, it has nothing to do with quality, improvement or education; it has to do with money and power. You have not comforted

the parents of Ontario in the least. You have given them no facts to go on and no faith that there will be forthcoming a funding model, that there will be forthcoming adequate consideration for their children's future education.

I will finish by saying that parents are watching this process, and in case you hadn't noticed, parents are voters. It would seem to me that a party that was 16 points down might be a little bit more sensitive to what parents across the province are upset about, and believe me, they are upset.

**The Chair:** There really is not time for questions. Does anyone wish to make a 30-second statement? That's all we have time for.

**Mr Wildman:** I'd just like to thank you for taking the time.

**Mrs McLeod:** I was just going to reiterate your own comments, Mr Chairman. In the attempt to make sure that at least the available spots were filled, you were put under tremendous pressure. I think if you look at Hansard, even as an editor, you'll not be unhappy with your presentation today.

**Ms Blackett:** I was a Hansard editor.

**Mr Rollins:** We on the government side want to say thanks too.

**The Chair:** Thank you, ma'am.

#### ETOBICOKE HOME AND SCHOOL COUNCIL

**The Chair:** The next presentation is the Etobicoke home and school association, Debbie Gilbert. Welcome, Mrs Gilbert. Do you have a handout?

**Mrs Debbie Gilbert:** Yes, I do.

**The Chair:** I'd ask you to proceed.

**Mrs Gilbert:** Just a point of correction; it's the Etobicoke Home and School Council.

Members of the panel, since the September introduction of Bill 160, the Etobicoke Home and School Council members have extensively discussed the contents and impacts on Etobicoke children. Our members represent home and school associations at local public schools in Etobicoke. A strong majority of our members are also chairs or members of their school advisory councils. The Etobicoke Home and School Council is also part of the Ontario Federation of Home and School Associations and has been in existence in Etobicoke for over 30 years.

We can all agree that change is a good thing. Certainly our home and school council does not disagree with that statement. However, there is a need for a very clear understanding of how all of the changes will fit together to provide quality education for our Etobicoke children. Parents want to be well informed and participants in the decision-making process in order to be a meaningful part of this entire process.

#### 1700

In discussions surrounding Bill 160, the following areas were raised as ones of great concern, the first one being the centralization of authority and decision-making. One of the great strengths of local decision-making processes

has been the involvement of parents. Parents have participated and have been actively consulted in the development, implementation and evaluation of education policy. Representation through local boards of education is essential for parents to be able to access the decision-makers in education. With movement towards centralized authority, commitment to ongoing consultation with parents is negated. Parents are very concerned that the unique needs and strengths of our Etobicoke community will no longer be addressed as in the past.

Point number two is educational democracy. We all try in the course of our daily lives to instil in our children the basic tenets of democracy to enable them to function and participate effectively in the democratic process. We urge them to use these processes throughout the course of their day whether it be in their schools, in the community or in the playground. How can we, as parents, explain to our children why we have no way of influencing operations at their schools when all these decisions rest in the hands of the minister and the cabinet?

A further area of concern related to educational democracy is the wide-ranging authority that has been given to the appointed body of the Education Improvement Commission over democratically elected school board officials. The fact that "the orders of the EIC are final and shall not be reviewed or questioned in any court" raises many issues and concerns. Why is the EIC not liable for decisions they make? Are there criteria in place to enable both formative and summative evaluations of the effectiveness of educational reforms? These changes cannot easily be reversed. They are important and will impact on our children and their futures.

The final point is funding. The biggest piece of the puzzle is the funding model, which has yet to be released. How can Bill 160 be passed without a clear understanding of what the funding model will be and allow for parental and other stakeholder involvement in the process? Parents want full access to accurate information on the funding formula, with impact analyses of programs that affect both the quality of education and school operations.

Bill 160 is not just about prep time, class size, length of school year etc. Bill 160 is about creating an environment for excellence in education. Issues surrounding the potential for allowing non-certified teaching staff in classrooms will impact our children's learning environment. Teachers' competence and understanding of our children's development and learning styles, in addition to their teaching credentials, must be respected.

Within Etobicoke there are many children with special needs who are enrolled in ESL and special education programs, while other gifted children benefit from gifted and early French immersion programs. Home and school stands for all children. Does the government? Assurances need to be given that your government will provide funding to ensure a level of classroom support that meets the needs of all Etobicoke students.

As we have stated in the past, it is not mere little widgets who will be affected by these changes. Our children will be affected. They are the future of this province.

Before we parents can fully understand and believe the promised improvements, we need to slow down and spend some time to build consensus. Then and only then, with calmness and assuredness, can we develop together a plan for change that will be successful. If we as parents, government and educators are not able to demonstrate a positive and enabling environment for change to occur, we have missed an educational opportunity for an entire generation of students.

We thank you for this opportunity to speak on behalf of Etobicoke children and their parents.

**The Chair:** Thank you very much, Ms Gilbert. We have a little over a minute per caucus. We'll start with the third party.

**Ms Lankin:** I take it, given that you're the Etobicoke home and school association, you're an association of all of the home and school —

**Mrs Gilbert:** We're a council.

**Ms Lankin:** You're the council of the associations, the umbrella.

**Mrs Gilbert:** We're the umbrella group for the associations that operate within our local schools.

**Ms Lankin:** So this presentation is a compilation of the views of all the parents who are involved in those home and schools through consultation.

**Mrs Gilbert:** Yes.

**Ms Lankin:** That's a pretty powerful statement.

**Interjection:** Speaking for all of Etobicoke.

**Ms Lankin:** Speaking for all of Etobicoke, exactly. Overall, the concerns you have raised come down to powers that are going to be exercised behind closed doors; lack of clarity about what the government's actual intent is; a suspicion that it comes down to fiscally driven decisions; and a call for the government to put the budget and the funding formula on the table before proceeding with this.

Do you think there is merit in just putting the bill to the side and, "We'll look at it later"? Let's deal with the issue of what the budget and funding formula is because it's within that bundle of information we have yet to receive from the government that we will find the answer to many of the concerns you've raised.

**Mrs Gilbert:** Yes, I believe so. We need to have that piece of the puzzle. Once that's in place and parents have had an opportunity to review it and have a good look at it and have some positive input into it, then perhaps the legislation can be brought back, once that final piece is in place.

**Mr Smith:** Thanks for your presentation. I appreciate the comments you've made. I would be interested to know, because Bill 160 mandates advisory school councils, is that something you agree should be a mandated component of legislation?

**Mrs Gilbert:** I have no disagreement with school advisory councils. Any method that will involve parents in the school is certainly not something we would turn away from or consider inappropriate.



**Mr Smith:** Do you think there is a need for further clarification and consultation with respect to the range and role of responsibilities that advisory school councils have?

**Mrs Gilbert:** Yes.

**Mr Smith:** When I look at the first report of the Education Improvement Commission, I note that there are about 75 different school council reps who were consulted. I think it's an appropriate expectation that as we move ahead, that same type of consultation will be conducted to ensure that the very concerns you're raising with respect to centralization versus decentralization can be addressed. I thank you for your comments today.

**Mr Gerard Kennedy (York South):** Listening to you reminded me of my own school advisory councils and how they struggled over the last year to try to find their focus. This bill must come not a slap but something very contrary to the whole idea of being able to have input. How would you characterize your members' feelings about their own involvement? From some of the comment I've had already, and I wonder if you agree, to me it seems more remote to have all the power of education now in the hands of the minister and the bureaucracy at Queen's Park rather than out in the communities where parents like yourselves and other members of your association can have some input. How is that viewed by the people who are part of the association when they see the power being centralized like that?

**Mrs Gilbert:** At the present time we can pick up the phone, call our local school board officials and usually within a day or two we have a response. One example we've had recently was at a curriculum night where a question was asked. The question could not be answered directly from the curriculum that was there, so the statement given to the parents was, "We'll go back to the board, the board will go back to the ministry and then we'll get back to you." It's two weeks now and they still haven't received a response.

The further away you are from the local area, the more difficult it is to know what the local needs are. I think that is the best way of putting it.

**The Chair:** Thank you very much, Ms Gilbert, for your presentation.

1710

#### ST MARY'S SECONDARY SCHOOL

**The Chair:** Our next presentation is Mr Gary O'Dwyer. I believe you should have all been presented with a copy of Students' Analysis of Bill 160, which is part of this presentation.

**Mr Gary O'Dwyer:** Mr Chairman, I'm just the contact person. It's the students who are doing the presentation.

**The Chair:** Okay. Whoever is to speak, make sure that we have their name for the purpose of Hansard. If you are going to try to get through all seven pages of this, you're going to go overtime, I would estimate. So either read quickly or I will have to cut you off at the 10-minute mark.

**Mr Todd Blimkie:** Our analysis is based on a number of different sources. We are members of a politics class at St Mary's Secondary School in Cobourg. I'm Todd Blimkie. With me are Kelly MacDonald, Erin Black, Kevin Cardoza and Darcy Fuller. We're all in a politics class. We're basing our findings on a number of different sources, one of which is the source you mentioned.

For a bit of an introduction: What strikes me, personally, more than anything else about the Education Quality Improvement Act is how it has generated and exposed a very serious lack of communication. Some aspects of the bill are quite promising. Two examples are school councils and student trustees on the board. It appears as though the legislation was created with noble concepts in mind. Yes, we need to cut spending, and yes, the education system could use a tune-up and a real housecleaning at the administrative level.

But where is the most important input as to what is good and bad about the system? Where is the youth perspective? We deserve to be the priority when it comes to creating a bill, updating and refining it and being aware of its implications. We have been left out in all these processes. This is an oversight larger than any part of the bill. The biggest question on students' minds right now involves the effects of the bill's passing both in the labour unrest and in the policy changes it creates.

We have hundreds of questions. For example, what will happen to our school year, our semester, if there is job action? Are there preparations for that? Is the government willing to let everyone who wants and deserves a say on Bill 160 to be heard or are they merely interested in getting it passed along by January 1, that being their goal?

We've heard that some issues in Bill 160 are non-negotiable. Are they non-negotiable? What are the non-negotiable issues? What if those issues have the potential to seriously damage our educational quality?

The students of Ontario have been passed over long enough. It is the responsibility of the government to interact with us on education reform, inform us about changes to our schooling and be certain of the implications that massive cuts and alterations can have. That's just common sense.

**Ms Kelly MacDonald:** My name is Kelly MacDonald. I'm a student from St Mary's Secondary School. I am a product of the Ontario education system. My concerns are about some of the proposals in Bill 160 which designate non-teachers to hold certain positions within a school that are presently held by qualified teachers. Furthermore, on page 2 of the education ministry's background under the government proposes to hire non-teaching professionals to teach certain classes such as music and art.

The role of a teacher in a student's life can have a very important and lasting effect. A teacher is trained to educate a student. This includes dealing with different kinds of students who have various needs as well as assessing what those needs are. Teachers also assist students in their development as thoughtful and productive people within the community. This includes acting as a support base or

mentor for their students both inside and outside of the classroom.

The only guarantee one has that a person can fulfil these expectations is if they are qualified, meaning that they carry a teaching certificate. The art and science of pedagogy require a great amount of training. A person without this knowledge and training will not be an effective teacher even if that person is knowledgeable in a certain area.

It should not be forgotten that teachers are professionals and cannot be substituted. Their jobs in every area of the education system are vital when it comes to the development of students. A qualified teacher is the best person for the job of educating Ontario's youth. Attempts to replace them in their present roles are by no means beneficial to the students or the education system.

**Ms Erin Black:** My name is Erin Black. I attend St Mary's Secondary School. I'm a professional student, with more than 13 years of experience in the education system. I feel that the concept of parent administrative boards has many positive attributes. It is a democratic form of representation, if elected; it is responsive to local needs; it is small enough to be flexible in its handling of local conditions — social, economic and demographic. Parent councils, while a good idea in theory, in practice could have many potential difficulties. Thus there must be a series of checks and balances to monitor the potential difficulties inherent in this organizational form.

I ask you how Bill 160 will ensure that the following difficulties will not arise and so damage the administrative process: The council becomes a political rather than an administrative forum; majority coalitions on council overrule and ignore minority rights; council membership is representative of the community population rather than being composed of active local interest groups; councils focus on immediate needs in lieu of having a long-term vision; a non-uniform quality of education arises across the province relative to the administrative quality of the individual councils; councils do not have the educational background or the time to stay abreast of current educational research and its practical implications.

Problems such as these could weaken the quality of education in schools, therefore a method of dealing with this must be addressed. However, if these problems were tackled, school administrative boards could be very effective in improving the education system of Ontario.

Another related subject is that of student trustees. The idea of student trustees has many positive characteristics, including the following: It is a democratic form of representation if elected; the students can make their needs and concerns known to the parent council and administration. Consequently, they will have a say in their own education as well as their parents.

Along with parent administration boards, the concept of student trustees could have some possible difficulties, first and foremost being that of the student's actual power on the school board. If the student does not have voting power, it is quite possible that he or she will be overlooked in the decision-making process of each individual

school. However, I believe that if this amendment were made, and if student trustees were elected by the student population of the school, student trustees would be a good addition to the education system of Ontario.

**Mr Kevin Cardoza:** I'm Kevin Cardoza, a professional student at St Mary's Secondary School, Cobourg. After reading Bill 160, a number of questions came to light. I will only focus on some of these, in the interest of time, as seen in my report. Looking back, I realize they all deal with power, the power of the Minister of Education which overrules any collective agreement the board has made. This power seems to be unfair in terms of our traditional sense of democracy.

For example, the bill states that the Minister of Education has the power to create and change the roles and responsibilities of any member of the board. He or she also has the power to have the board prepare any reports the minister might want, along with financial statements, without any questioning whatsoever. What reports might these be? What would he use them for?

In another section, the bill states that the minister also has the power to govern the size of classes as well as methods of determining the size of classes. This sounds unclear. Where are the numbers to accompany the regulation? Can they be changed afterwards? Exactly what methods could be used: ones that produce more favourable results?

It also states that he or she has the power to designate positions that are not teaching positions and allow non-teachers with minimum qualifications to take their place. Which positions actually are not teaching positions? What are these minimum qualifications? It goes on to say that even positions that do not count as non-teaching can still be replaced. Which positions then would you say require someone of a teaching profession?

These and other issues question the authority of the Minister of Education and whether or not he or she has too much power. These questions need to be answered and these issues need to be clarified before the bill should be passed.

**Mr Darcy Fuller:** I'm Darcy Fuller, also a student at St Mary's Secondary School. Just to wrap up our presentation, the government states that the purpose of the Education Quality Improvement Act is to create a more cost-efficient education system, while also bettering the schooling that students presently receive. Most would argue that this is a positive proposition. However, Bill 160 has given rise to a great deal of controversy and dispute between the teachers' unions and the provincial government.

Stuck in the middle are the students, the individuals who will be most affected by the proposed changes. Many of the concepts in Bill 160 are vague and indefinite and leave most people, students in particular, to speculate on how these proposals will truly affect Ontario's system of education and if they will really be favourable to students. Consequently, when one studies the bill, one is left with more questions than answers.



Legislation such as this should provide a definite plan for the future of Ontario's education. Instead, it provides rather ambiguous proposals, giving no direct course of action except to grant absolute power over the education system to the minister, without accountability. Decisions could be made that affect students without debate in the Legislature or public consultation, which seems somewhat less than democratic. This leaves one to make speculative predictions about what the education system will become in the next few years. The pressing question is this: Are the proposals made in Bill 160 truly meant to improve the quality of our education?

If this act is not just a façade to cut money from the education system, then it would be wise to state clearly and plainly exactly what the government proposes to do and how they plan to do it. If the bill is not intended to be undemocratic, then it has to be amended to ensure that the government must consult teachers, parents and students.

The aim of this bill should be to promote efficiency, to streamline processes and to improve the present education system so that students learn more effectively. Yet, the proposed legislation leaves questions about the fulfilment of these aims. Further amendments to this bill and consultation with parents, teachers and students are necessary steps to ensure that the quality of education will truly be improved.

**The Chair:** You proved me wrong. You completed your presentations within the 10-minute period. Well timed. Thank you very much for a very professional presentation to this committee.

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**Mrs McLeod:** On a point of order, Mr Chairman, and I have a question perhaps to the parliamentary assistant: I understand that subsequent to the meeting between the minister and the teachers, the minister has indicated he may be prepared to delay the passage of this bill and that he may be prepared to write regulations into the bill. Should either of those eventualities occur, I would ask the parliamentary assistant if he would seek assurances from the minister that this committee could then adjourn its hearings until such time as we saw the amended bill with the regulations written in. We could then resume public hearings on what would be substantively a new bill.

**The Chair:** Thank you.

**Mr Blimkie:** I would ask if that happens, would the students be made aware that it did as well? I think it's very important.

**Mrs McLeod:** Indeed. I agree.

**The Chair:** Thank you very much again.

**Mr Wildman:** You are certainly evidence that the system is not broken.

**Mrs McLeod:** Mr Chair, do I have that assurance from the parliamentary assistant?

**Mr Smith:** I haven't had an opportunity to speak to the minister today because, obviously, of being here during the proceedings. But if there are issues forthcoming that he feels should be made available to this committee, then we'll undertake to do that.

KEITH CRYSLER

**The Chair:** Our next presentation is Keith Crysler. Welcome. Would you please proceed.

**Mr Keith Crysler:** I have been a resident of Scarborough for over 25 years. My children have attended publicly funded elementary and secondary schools in Scarborough and received an excellent education. My daughter is a graduate of McGill University and my son is in his graduating year at Mount Allison University. Their Scarborough education prepared them well for their honours programs and their level of achievement has been well above average at both universities. I put those comments in because of the quality of education they have received in Scarborough, but you could see just from the previous students here the quality of education that is given throughout this province.

I'm also the principal of Lester B. Pearson Collegiate in Scarborough. The Pearson neighbourhood has a high percentage of residents who are new to Canada. The students and parents are dedicated to education as a way of realizing their goals in life and improving our society in Ontario. It is a school with a proud tradition of achievement and social contribution. The school staff, the students, parents and community members work hard to make the area a vibrant social community. Every attack on education and social services has had a detrimental effect on this community.

I'm indebted to Dan Newman, my MPP, who has facilitated my inclusion on the list of presenters to speak in opposition to Bill 160. Right now I feel the pressure to represent the thousands of people who have applied to speak at this hearing and who have been denied that democratic right as well as the tens of thousands who might have wanted to apply had the time lines for application not been so tight.

The process that has been set up for these committees and the timetable that has been developed to rush Bill 160 through the Legislature are completely consistent with everything that is wrong with this bill. We've heard more than enough from the previous minister about how our education system is broken, mediocre and in crisis and how it needs to be fixed up right away.

I'm turning to the next page, the third paragraph down.

However, Ontario has the highest rate of high school graduation in Canada: 88%. Ontario also has the highest rate of students proceeding to post-secondary education in Canada: 83%. These data are from Statistics Canada. Last year the Durham Board of Education entered the Carl Bertelsmann international award organized by Germany and was found to be the best school board in the world. Every news medium in the Toronto area reported extensively on this achievement, yet the ministry refused to acknowledge it. The Ontario Institute for Studies in Education has found, in its annual review of public attitudes toward education, that public approval for education in Ontario has increased for the 12th year in a row.

Why does this ministry constantly downgrade its own education system? Teachers, students and parents want an

honest answer to this question. An ever-increasing number is convinced that the ministry wants to dismantle public education in Ontario in favour of a two-tiered system: a well-funded private system for the wealthy and a greatly diminished public system for the rest.

Teachers have lots of ideas for improving public education, but they have not been consulted about this. In *The Road Ahead*, the report of the Education Improvement Commission, the authors have said, "We regret the absence of a strong voice from teachers in our report." This is on page 33. What did they expect? They never did directly ask the teachers. I personally went to some effort to invite Dave Cooke to speak to Scarborough teachers in May and his office refused. Ann Vanstone cancelled at the last minute a commitment to speak to Scarborough teachers in February. The EIC hearings were held with little notice and little hearing time. This ministry with its commission sees what it wants to see and hears what it wants to hear.

Last year the ministry proposed a secondary reform package which proved to be unacceptable to the people of Ontario. Parents, students and teachers insisted on commenting on all aspects of the document, not just the four narrow questions that were asked by the ministry. As a result the ministry got the range of input necessary to improve the document. The time lines for the start of the program were extended by two years to allow for more feasible implementation and improved practice. A similar process is needed for Bill 160.

Bill 160 is not about improving the quality of education. The title of this bill is a classic example of Orwellian doublespeak. This bill is about centralizing power and institutionalizing the power to act without listening. It denies citizens their natural rights.

Teachers resent the campaign of misinformation the ministry is promulgating and the media are reporting about prep time. I'd like to direct you to the middle of the paragraph. Let's compare apples with apples. The ministry uses 200 minutes of prep time per week as the national average. Scarborough secondary school teachers get 187.5 minutes per week. That is 6.25% less than the national average. Teachers use their prep time to tutor and support students individually and to consult with professionals about individual students, as well as program.

Of course, these things can only be accomplished only during the school day. With marking, lesson preparation and co-curricular voluntary effort, teachers put in good 50- to 60-hour weeks and they need prep time to do their job properly. However, prep time is a superficial issue that obscures the real cause for teacher opposition to Bill 160. Likewise, there are concerns about the misrepresentation of the certification of teachers, the use of professional activity days and the capping of class sizes.

But what is absolutely unacceptable in Bill 160 is that every lever of power that determines what happens in education in this province will be buried in regulations that can be decided by cabinet without any legislative review, without any media coverage, without any public consultation.

Educational funding is currently the responsibility of locally elected boards to decide in consultation with their local constituents. According to Bill 160, this would be decided by cabinet without any public discussion.

Teachers' working conditions are currently a matter of local negotiations between teachers as employees and boards as their employers. According to Bill 160, neither the employer nor the employee would have any say in these conditions of teacher work and student learning. All of this would be decided in closed session of cabinet. The public, teachers and students would be cut out of this discussion forever.

This is an absolutely unacceptable set of rules for a democracy. The assumption of such arbitrary powers by cabinet is the most upsetting issue for teachers. The Teaching Profession Act requires, among other things, that "A member shall...endeavour to develop in his pupils an appreciation of standards of excellence; endeavour to inculcate in his pupils an appreciation of the principles of democracy." Bill 160 substantially erodes the ability of teachers to complete these duties.

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Before I close, let me describe to you the reaction of classroom teachers to Bill 160. After more than two years of persistent attacks on their programs, professionalism and exemplary work ethic, teachers are convinced that the previous minister neither respected them nor trusted them.

With Bill 160 having been passed in principle, there is the very real threat that the cabinet would remove from teachers and all of society any vestige of participation in the conditions of teacher work, the conditions of student learning and the crucial limitations to educational financing.

This unprecedented exercise of power, applied exclusively to teachers, transcends routine union-management disputes. Human rights are at stake. I have observed in my staff an entire group of individuals united in fury and cold resolve, prepared to do whatever is necessary to restore empowered dignity to their profession and democratic participation to educational decision-making.

I have spoken to other principals in the Scarborough secondary and elementary panels and their observations are the same: Individual educators, who had previously focused exclusively on the day-to-day rigours of classroom instruction and cocurricular leadership, are now determined to express political protest to Bill 160, if that is what is needed.

Therefore I say to you we must amend Bill 160 to restore the normal processes of consultation, discussion and negotiation of educational structures that one would expect in a democratic society and that have been part of Ontario's educational environment for decades.

**The Chair:** I thank you very much, Mr Crysler. Your time has elapsed.

BRONWYN DRAINIE

**The Chair:** Our next presenter will be Bronwyn Drainie. Please proceed.



**Ms Bronwyn Drainie:** Good afternoon. My name is Bronwyn Drainie.

This is the third time in nine months that I have appeared before a legislative committee here at Queen's Park. The first time was in regard to Bill 103; the second to Bill 148 and now in regard to Bill 160. This exercise has gone way beyond curiosity and novelty, which is what I felt the first time, and way beyond anger, which is what I felt the second time. This time I simply feel resignation. I am resigned to the fact that this government does not follow reason, does not listen seriously to its citizens and intends to push its noxious agenda through no matter what any of us says.

But I am also resigned to my role as an active, concerned citizen, a role that I never played before your government came to power, and I will not abandon this role until your government has been soundly defeated. Even then —

*Interruption.*

**The Chair:** Excuse me. That's enough of that nonsense. This is not a football game. This lady has taken the trouble to come here to make a presentation to this committee and her rights should be respected. Please proceed.

**Ms Drainie:** Thank you. Even then, after your government is soundly defeated, although it is difficult for me to imagine another government that would act from such profoundly anti-democratic impulses as yours, I will never again let down my guard completely. Your so-called revolution has accomplished this at least. It has transformed not just me but a huge sector of the Ontario population into critically thinking watchdogs on the democratic process. Somehow I doubt that was your plan when you took office.

I want to talk about two things today: about teachers and about democracy. I'm the mother of two boys who are in grades 9 and 12 in the Toronto public school system. Like many parents in Ontario today, I have been concerned about the quality of education my boys are receiving. We haven't heard very many specific examples here this afternoon and I want to give you two from my own experience.

Last year, at the school my son was at, his teacher informed me that there were five children in that class who were recent immigrants and spoke no English. They were from five different language groups as well. There weren't any two the same. There was no ESL support in that school — none whatsoever. She was begging parents to come and volunteer their time to come and help teach these children English. I volunteered. I went in every Friday morning that year to help. But a few volunteer parents is not what is required to deal with that problem.

The second problem that I want to tell you about is this year. My son is in grade 9. In his science class there is no science lab for those students to study in. They are in an ordinary classroom with a blackboard at the front, no Bunsen burners, no work benches, no nothing. Chemistry in that class consists of the teacher describing experiments to these students rather than them doing any themselves

because there is no room for them in the science classrooms.

You see, I am concerned about my kids' education, but unlike you and your government I do not lay the blame for the system's shortcomings at the feet of our teachers. If anything, I believe they should be given a collective medal for attempting to fulfil all the demands that our society heaps on their shoulders. We insist that they be family therapists, race conciliators, police, career counsellors in a world of bewildering change and instillers of values that we as a society seem incapable of giving to our children.

But that's not all. Our teachers also have to answer to the beck and call of an education ministry here at Queen's Park that is top heavy with theorists who probably couldn't teach their way out of a paper bag. I have watched over the years, during countless after-school conferences with my children's teachers, how these teachers struggle with more and more unreasonable demands placed on them by the ministry, measuring inputs and outputs, calibrating benchmarks, defining outcomes, doing almost anything, it seems, except teach.

This is not, I hasten to add, a problem that began with your government. It's been there for years, but your government's emphasis on turning education into a business, with clients instead of students and with quantifiable productivity as a goal instead of true education, is making the problem much worse.

My personal experience of Ontario's teachers is that they are a conservative, hardworking, responsible and dedicated group of people. The last thing any of them want, I'm convinced, is to be out on illegal picket lines rather than in their classrooms. But your government set out to create a crisis in education, as Mr Snobelen so candidly pointed out early in your mandate, and you have succeeded beyond your wildest dreams. You have turned a small-c conservative segment of the population into an angry crowd who have marched on your Legislature, 24,000 strong, and who now threaten to walk out as early as Wednesday. Take a bow, folks, you did that. You can take all the credit.

I admire my children's teachers. They are doing a job I could not and would not do. I know from my own experience as a student that out of the few dozen teachers they will encounter throughout their school days, there will be two or three who will be as important in shaping their futures as their father and I are, and I'm not alone in these sentiments.

You're doing your own daily or weekly private polling, with our tax money, no doubt, and your polls are telling you loud and clear that the majority of the Ontario population stands behind its teachers and does not want you to bully them or threaten them or punish them any more. It wants you to withdraw the really nasty, punitive parts of this bill, the ones about class size and about teaching and prep time and about allowing non-qualified persons teaching in our classrooms. They just want you to get those clauses right off the table. They are all about saving money. They are not about improving quality. Nobody in

this province believes Mr Johnson's empty rhetoric on this subject — not any more.

1740

But I am especially concerned about Bill 160, not on behalf of teachers, who are doing a perfectly good job defending themselves without my help, but on behalf of my fellow citizens of Ontario. This bill is one of the most blatant democracy-busters you folks have brought down in the past two years. I have read it from cover to cover and two phrases ring out over and over through its pages, like a death knell for our democratic rights.

The first phrase is this: "The Lieutenant Governor in Council may make regulations respecting any matter that is referred to in this section as prescribed," which simply means that all the important substantive work on the future and funding of education in this province will be done behind closed doors by the cabinet and its ministry servants, with no public input and public knowledge at all.

The second phrase is this: "Jurisdiction is not open to question or review in any proceeding or by any court," not even a kangaroo court, not even a semblance or a charade of due process, of checks and balances, of the right of appeal. It sort of takes your breath away, doesn't it?

Bill 160 calls for the creation of special education tribunals, entirely appointed by the minister. Dispute resolution will be handled by arbitrators entirely selected by the minister. And of course the Education Improvement Commission, created by Bill 104, will hold sway over all important decisions.

Meanwhile our boards of education, the one place where parents and citizens could effect change in the education system, have been dealt a mortal blow by Bill 104. No one who needs to make a living will be able to run for school trustee any more, since your government has slashed the stipend for this work from \$50,000 down to \$5,000 a year. And the huge new size of the boards' boundaries will guarantee that the majority of us are effectively disfranchised as regards educational policy.

All of this just to pay for your 30% tax cut? A tax cut, by the way, for which there is almost no enthusiasm or support in Ontario any more since people have wakened up to the fact that anything they save on the tax cut they're going to lose again on the downloading on to their property taxes. I see much more than bogus financial reasons for your revolutionary attack on our education system.

**The Chair:** Excuse me, Ms Drainie. There's only one more minute.

**Ms Drainie:** Fine. I see a hatred of professionalism and a desire to humiliate teachers and principals. I see a wide-eyed, romantic vision of Ontario students being turned into gleaming foot soldiers of the computer-based technological revolution, sort of off into the sunset, and I see a callous indifference towards and ignorance of the roots of both education and democracy. Perhaps it's not indifference and ignorance but something more sinister. Perhaps you do understand, as have the best thinkers throughout history, that education of the population is the key to a healthy democracy. Perhaps you know that by

eviscerating education you can also mortally weaken democracy. Nothing like killing two birds with one stone.

I have one final thing to say that I approve of that you have done: you have moved the education budget largely off our property taxes and on to the progressive income tax base, or at least you intend to do so. This move reinforces one of the basic building blocks of a fair society, that those who can afford to will pay more than those who can't, to protect and maintain an education system that benefits us all and guarantees the future of a civilized society in our part of the world. For that one move I thank you, as well as for giving me the opportunity of speaking to you today.

**The Chair:** Thank you, Ms Drainie.

BONNIE PALMER

**The Chair:** Our next presenter is Bonnie Palmer.

**Mrs Bonnie Palmer:** My name is Bonnie Palmer and I'm a parent with three kids in the Scarborough public education system. I am not affiliated with any group, any union. I am just here as a parent and what you see in front of you is research that I have put together on my own over the last three weeks.

I am greatly concerned with Bill 160 and how it will jeopardize my children's education. This present government has two goals. A short-term goal is to save money from the education system to meet a huge tax and debt reduction targets. The long-term goal, to me, is radical education changes as their key to success politically. It is not clear what the agenda of this government is, because the minister clearly sidesteps any direct questions he gets in regard to Bill 160. I want to know if the minister wants to privatize schools, as they have suggested with other government agencies such as postal services. Is he going to run my children's education as a business to better meet their needs? School boards have already been cut to the bone. School boards are to be seen as the voice of school communities, but the government here feels it is the voice of the community. They forget that a huge majority is against the bill, or portions of it.

This government does not wish to acknowledge changes people or parents wish to make. The government, by taking control away from teachers is also taking away parental control over children's education. It gives the present or future government the right to change education on a whim, and this, to me, is very dangerous.

It's a lot more effective to me as a person to go to my children's school and talk face to face to professional, educated personnel and voice my concerns, whether they're big or small, and receive feedback rather than going down to Queen's Park and hoping to be heard. I feel my local school educators want us to work together as a team. This government wants to fly solo.

Bill 160 is not about educating my children or the quality of education. I see it as a big power struggle on who has power and who doesn't. To me, it's about slashing approximately a billion dollars from our schools.



Again, that figure is not known, because we don't know the figures, but as it stood before, a billion dollars.

I think in the past school boards have represented the public. Teachers are employees and the boards are the employer. Within the standards set by the provincial government, they together determine usual things through contracts, such as class size and prep time. I don't see why this needs to be changed if it is working.

Bill 160 is made up of three main points:

(1) Limit the areas over which teachers may bargain.

(2) The Minister of Education and cabinet are to be given almost absolute power to determine both class size and amount of prep time granted to teachers and other decisions about education. It also gives cabinet members power to determine who can teach. The education minister, I feel, is playing on the emotions of parents. Why not just set a minimum or maximum amount in Bill 160? Why is it so difficult to come up with a number to give people to alleviate some of these worries?

Concerning (3), giving the cabinet power to determine who can teach, Tories have been recorded as saying: "Local sports figures could teach physical education, or public librarians could run the resource centres. Non-certified instructors can be used in computer labs and music and special ed." I think the government wants money control and that is all.

I, as a parent, want my children to be taught by people with experience who are professionally trained in all aspects of child development, such as mental, social, physical, and intellectual. People who are committed enough to become certified: I think that's an important issue and it's being overlooked.

I think some changes can be made, yes, and improvements can be done, but proceeding so quickly, radically and blindly to change an entire education system in such a blow is very dangerous.

Change is hard for anyone in the best of times. Changes so numerous, so vast, so intense can only be more devastating to the complete child. I think we need to work as a team. Teachers are professionals, as are doctors, nurses, newspaper editors, media reporters etc. Teachers have five years of university training. They must be recognized as skilled professionals in our schools and the laws that govern them.

I feel, like others, that the education minister is unclear why he needs more power and what he wants to do with it. Bill 160 sets no limits whatsoever on how the government can change qualifications with regard to work in our schools. To me this is very scary, the blanketing power that it allows you to have.

They want to eliminate or download the Ontario College of Teachers. Why would you do that? That was something that the previous government and Snobelen himself, before he was demoted, was in favour of. Why only have a regulatory body for some teachers? People who teach science and phys ed should have the same regulatory bodies as everybody else.

I'm going to move on, as time allows here. I have a lot to cover. I would ask you to look through this and realize

that having all aspects of education and funding left in the hands of a minister is totally unacceptable and inappropriate. It's a public education system. Therefore, members of the public should have a say about their expectations and the direction they want the system to go. Bill 160 gives the government total control of education from funding to day-to-day operations. How do fewer teachers and more classes equal quality education?

In regard to prep time, the minister doesn't acknowledge the value of outside-the-classroom time with students to provide extra help and to run extracurricular activities or on call coverage. These things are not calculated into the national figures he is quoting. Extracurricular activities are an important part of a child's development. When one applies to university or college to further their education and to become an asset to our province or country, they are asked: "What are some extracurricular activities you have participated in? What are some of your hobbies?" Physical fitness is an important aspect of a child's everyday life. Educated people equal healthier people, and therefore would most likely equal money saved in our health care system.

**1750**

Post-secondary institutions want to evaluate how someone can be or is a team player. This has many benefits to our community, province and country. One must have a combination of being a good team player but also be an individual who can think independently and make positive decisions on his or her own. This in turn would be beneficial, not detrimental, to everyone, no matter what their occupation, career path or destination in life. Public education as it stands today can and does do this. Bill 160, as it stands, cuts the heart out of education. It will be more detrimental to the overall development of my three children, of all children in our province, in our schools. It stunts their growth. It kills my input as a parent to have a say in their education.

This present government has shown me in a consistent and personal way that it's not listening to the people of the province. It is infringing on one's right to speak at Queen's Park. It was a very sad day last week when the Conservative MPPs of this committee voted to bypass the usual democratic process, which has been in place for many years and has proven to be successful, to stack the deck in their favour with people to speak in agreement with Bill 160, therefore not allowing a true picture of public hearing.

I want to state that I am very thankful that I was one of the chosen few who were allowed to speak today because I squeaked and was heard. I squeaked in through a process of being on a list of six out of 16 names, but many did not. Why? They may not have met the set criteria one must to speak to this government, which I thought was elected by a democratic process. They may not have been among have been among the government's elite group of 50 or were not on the final list brought forth by the eight committee members.

If this current majority government can in one afternoon take away my individual rights as a voting Canadian



citizen of the province of Ontario to speak on an issue slated for public hearings, what else can they take away? This is very frightening to me. Can my complete democratic rights be totally wiped out? I guess so. Can they in one sitting take away my child's right to a fair and professional quality education? Can they in one afternoon take my child's teacher away from them and upset their ideal of a safe, comfortable, consistent environment in which to learn and to teach them on a path of direction and learning for many years to come? Bill 160 says yes, and behind closed doors, with little to no public input, recommendation, no parental rights. That's what Bill 160 currently stands for.

Dear caucus members, you are supposed to be the voice of all people in Ontario, regardless of age, sex, race, religion or marital status. Being a parent with three small children, I have a responsibility to provide the best care and safety and unconditional love for my children. This means being involved in every aspect of their lives, whether it's minor or major, and being involved in important decisions, either minor or major, in their lives. This includes education. You cannot take this away from me. I will stand up and I will fight for the best education they can have. They are in a system where for four years I have seen nothing but professionalism, love, trust, safety, concern and encouragement to learn from their teachers and other educational personnel.

Education includes and is not limited to — I will use your jargon here — many things like math, English, writing, reading, learning proper nutrition, singing, social development, such as recess, games, art and music, to increasing one's self-esteem. This can be done by winning third place in a music festival or by doing the best they could in soccer. They learn and are learning about good sportsmanship. It is instilling in them that it's not about winning but about trying to be the best you can be. Success is trying and trying again, not to give in or to give up.

I plead with you again, let's be the best that we can be. This can be done by listening, cutting, revamping and trying again. My children are not mediocre, as the education minister has said. My children do have an excellent education. Responsibility lies at home as well as at school to learn and improve their skills and abilities as their bodies and minds allow. We must work together as a united team to find an agreeable solution. Canada is free, well advanced and, contrary to what some in the government might think, well educated. Am I saying there is no need to improve? No. We need to strive to be the best we can be, but everyone is an individual and learns and develops differently. Putting a whole system in one box does not equal success; it will equal disaster.

Just one quick thing, please: Listen to all your people. If you remove your fogged glasses of denial and personal success via a personal agenda, you will see success. You will see willingness on behalf of people to negotiate. You will see harmony. You will see a majority of people who are not in agreement with Bill 160 as it is written today but who are willing to help you and in turn help my children and our children to continue having a successful,

quality-filled education. By revamping certain areas of Bill 160, you will have graduated from flying solo to working as a team player. This is the only way our number one team will win: our children.

**The Chair:** Thank you, Mrs Palmer.

Ladies and gentlemen of the committee, we have three more before our 6 o'clock recess. We took half an hour for lunch. It's almost impossible to have half an hour. What is the desire of the committee at this stage? We can proceed with one, two or three more and put the remainder over to the evening. We have a couple of cancellations in the evening, so it will be a shorter evening. Are there any suggestions? Think about it and we'll proceed with East York in any event.

**Mrs McLeod:** I'd just like to suggest what would work best for the three presenters, who have probably been here for some length of time. If there are cancellations in the evening, maybe we could have the three presentations before dinner and then start somewhat later in the evening.

**The Chair:** The difficulty is, there's no way of contacting the people who are going to be here at 7.

**Mr Newman:** Why not go through now, and if something hasn't been ordered, we'll order something and it'll be ready at 6:30.

**Mrs McLeod:** That would suit me fine.

#### EAST YORK HOME AND SCHOOL COUNCIL

**The Chair:** We'll proceed. East York home and school association, Laura Dark.

**Ms Laura Dark:** My name is Laura Dark. It is the East York Home and School Council and I am the past president. The current president, Trish Simmie, is also with me.

**Mr Wildman:** This is an umbrella group?

**Ms Dark:** Yes.

**Dr Trish Simmie:** I'll just start very briefly with, who is the East York Home and School Council?

The East York Home and School Council represents home and schools in two thirds of the schools in East York, 16 schools altogether. We have over 1,000 families who have purchased memberships in the home and school and many thousands more who participate in home and school activities. Our members are actively involved in their local schools, working in classrooms, fund-raising, running educational programs for parents and a myriad of other activities that enhance the education our children get in East York. Home and school council represents our members on board committees, borough committees and provides a link to other community groups and home and schools across the province. For over 50 years there have been home and schools active in East York.

This past Thursday evening, the East York Home and School Council passed the following motion:

"Whereas the East York Home and School Council fears Bill 160 will result in massive reductions in education spending in Metro Toronto; and



"Whereas the provincial government has not denied that up to \$1 billion could be taken out of education funding in Ontario; and

"Whereas the Minister of Education and Training will not guarantee that any savings resulting from educational changes will be totally reinvested in the education system; and

"Whereas Bill 160 will result in a total loss of local autonomy through centralization of decision-making in key areas such as funding, class size, certification requirements, curriculum and government by regulation, leading to undemocratic decision-making;

"Therefore be it resolved that the East York Home and School Council demands that the Minister of Education and Training withdraw Bill 160."

Any of you who have ever had anything to do with home and schools knows this is a very unhome-and-schoolish motion.

What is it that has driven the East York Home and School Council to come up with a motion like that? We had a lot of discussion. We like to be balanced. Let's look at the pluses and minuses of this bill. We talked about what we didn't like. That was pretty straightforward. The fact that there is no funding formula — this is the middle of October. How can we discuss these issues when we don't know what the financial implications are going to be?

The transfer of authority to the Minister of Education for virtually all areas of decision-making is just unconscionable. The authority to make changes by regulation, such as firing an elected school board if they don't do what the minister wants, is not a power we want this Minister of Education to have, nor the next minister, be she Liberal or NDP. This is not in the best interests of our students.

Removal of local control over education spending, with the added insult of the mega-board in Metro Toronto, means we no longer have any say in what types of programs we want to see in our schools. Localized initiatives are critical for a community to meet local needs and many of these local initiatives will be lost.

The issue of class size is unresolved but the act uses 35 students as a loading factor for space allocation. The former minister has indicated the desire to have a maximum class size. How can the minister cap class size at a reasonable level when the loading factor is already determined? How will the board manage without the flexibility to have smaller classes for groups such as special ed students when they have no flexibility in class sizes?

We then turned to what we liked about the bill. There was rather profound silence. Somebody pointed out that in fact it does give us student numbers, so that the students would be able to move from school to school. This was a positive, but really there was nothing much else we could come up with that we liked; hence this motion.

I should say that as we were debating this motion, there wasn't a single parent in that room who felt that after all these changes — all the time and effort trying to put the parents' viewpoints across, the chaos that is going on in

terms of leaks and amalgamations and everything else — their children will benefit from these changes. In fact, for children in the public school boards in Metro Toronto, the implications of these changes are universally negative.

**1800**

**Ms Dark:** I want to start by relating something I heard last week from the Jane Jacobs Ideas that Matter conference. Ann Medina asked Jane Jacobs what she thought of our government. Without a pause she said: "They're making my life absurd. We all have better things to do." Jane Jacobs, as you know, is a very straightforward and clear-thinking octogenarian and an internationally recognized thinker. You, ladies and gentlemen, could learn a lot from her and I hope that some of you attended.

As a home and school volunteer I feel that you are making my life increasingly absurd. I worry that the same is also happening to my children and their education. The present Bill 160 is poised to allow our government to change direction at will. We are cutting \$1 billion from education, or maybe we're not cutting \$1 billion. I wish Jane Jacobs knew. At least we could get a straightforward, honest answer.

Your constant insistence that the school system is broken and the barrage of commissions, boards, task forces, reforms, bills, committees, papers, acts, hearings and consultations have all community and education-based volunteers reeling and dispirited, yet you maintain that volunteerism is the road to the future. What was once done institutionally is now to be undertaken by volunteers. Volunteers are to fill the gaps where funding is withdrawn. Volunteers are to fill the position on mandatory school councils. I have been the president of a local home and school association, the president of the East York home and school council, the chairperson of the East York community breakfast club for children, the co-chair of the East York community advisory committee, and now I sit on the East York Collegiate school council as well as attending the EIC consultations, the LEIC meetings and the weekly parent-community-student subcommittee meetings.

This list includes hundreds of committed volunteers who give parts of their lives to make the community and the education system better, for free. They are tired of what you are doing and how you are doing it, and so am I. I am tired of the misinformation or complete lack of straightforward answers. I am tired of arrogant ministers willing to push the system to the brink by creating one disaster and conflict after another in an attempt to paint teachers and school boards as the bad guys. I am tired of an escalating tension between teachers and the government which will see my kids out of school. You are showing little or no managing or resolving skills for these crises.

I am tired of the commissions that mandate volunteerism from above without a clue of how successful volunteering is really created. I am tired of spending hundreds of hours trying to explain to my associates what you are doing, with the limited information that you give me. I am tired of being called on Friday afternoon at 5 pm and told

that I have 10 minutes to speak here on Monday when I can't get my MPP to show up with weeks of advance notice of a meeting. In short, folks, you're making my life absurd, and I have better things to do.

I want to give you some advice for the future: There are thousands of people already volunteering at no expense to taxpayers in our education system. Treat them with some honesty and respect and listen to what they are telling you. They are miles closer to the front line than your ministry or ministers. Stop picking on the local aspect of education. It seems to us that the province-run portions of the system may be mostly problematic. Start giving us straightforward answers. Show some leadership and management skill by cutting the macho rhetoric and reduce the current conflict into a meaningful, constructive and useful discussion on what is best for our children's education. Invest in our children's education; don't use education as a cash cow to fund tax rebates.

Remember we have better things to do than participate in the ideology of your revolution. They include our kids' education and our communities.

**The Vice-Chair:** Thanks for being right on time.

BRUNO PILEGGI

LYNDA CLIFFORD-RASHOTTE

LOUISA DeCIANTIS

ANTHONY BELLISSIMO

**The Vice-Chair:** The next presenters are Bruno Pileggi, Anthony Bellissimo, Lynda Clifford-Rashotte and Louisa DeCiantis. Sorry for the pronunciations. State your names for Hansard and you're on.

**Mr Bruno Pileggi:** I'm Bruno Pileggi. We welcome the opportunity to appear before this committee.

**Ms Lynda Clifford-Rashotte:** Lynda Clifford-Rashotte. I am proud to be here as a grade 2 teacher and the mother of three school-age children.

**M<sup>me</sup> Louisa DeCiantis :** Louisa DeCiantis. J'enseigne le français cadre et le français immersion aux 7<sup>e</sup> et 8<sup>e</sup> années. I teach over 200 students.

**Mr Anthony Bellissimo:** I am Anthony Bellissimo. I teach children with complex learning disabilities.

**Mr Pileggi:** I teach in an early intervention and prevention program. I teach students with severe social, emotional, cognitive and behavioural difficulties.

We are teachers, professional, well qualified and well educated. We have the understanding, knowledge and experience to appreciate the impact this bill will have on children.

We believe this bill should be about understanding: understanding the difference between what benefits children as opposed to what will eventually destroy them. We believe this bill should be about knowledge: knowledge that the right of children to an excellent education is the most important consideration.

The government believes this bill is about quality and improvement. Bill 160, the Education Quality Improve-

ment Act, 1997: Where is the quality? Where is the education improvement?

If this bill is truly about improving the quality of education in this province, one would think it would be imperative to include the valuable insights of classroom teachers. It is a cruel irony that even though Ontario's teachers are among the best trained and the best educated in the world, teacher-bashing has been elevated to an art form. This government has led the charge right to Bill 160. Bill 160 forever excludes the voices of teachers.

We believe that Bill 160 should be withdrawn. Any future government initiative that presumes to better the quality of education in this province should begin with the input of those closest to the system. After all, we are partners. From our perspective, Bill 160 fails to include our understanding and our knowledge about how best to address the needs of children.

**Ms Clifford-Rashotte:** I am pleased to have my voice heard at this table today. I am accustomed to speaking to seven-year-olds and in a lot of ways that's a tougher room than even this one.

In the almost 20 years that I have been teaching, I have come to many important realizations about my profession, two of which I believe are relevant to our discussion of Bill 160. The first is that as a teacher, I have an awesome responsibility and a powerful impact on the children I teach. On a clear day I can see that in their eyes.

The second realization is that teaching as a profession sure isn't what teaching used to be. Teaching today is so much more than what teaching used to be. Some days I know the children can see that in my eyes. After almost 20 years of teaching I still love it. I love teaching because I care about the children I teach, and if I may say so, they love me too. On that basis alone a computer could never replace a teacher.

I love teaching because it is a challenging and important profession. Teaching has never been an easy job, but it has never been as demanding as it is now. I look at the difference between the time I started teaching and today and I think it's akin to the difference between Andy of Mayberry and NYPD Blue. The job description for teachers has grown immeasurably and teachers have grown right along with it. Our professional competencies and our areas of expertise go well beyond the traditional expectations of what a classroom teacher does.

**1810**

Teachers instinctively adapt to change. We continually adjust our programs to implement a curriculum that seems to change just about every year now. Planning time has never been so essential. But in the 1990s it is the changing social and emotional needs of children that are presenting the greatest challenges for classroom teachers. It is in meeting these tremendous needs that we teachers often experience our greatest successes. But these amazing achievements and minor miracles cannot be measured on any standardized test.

The world is changing at an unprecedented rate. Families are facing unprecedented pressures, so it is not surprising that the children coming to our classrooms are



coming now with unprecedented needs. The question is, how can we be making unprecedented cuts at this time and ignore these social realities? To this complex mix we add Bill 160.

**Ms DeCiantis:** This bill disregards the current complexities of our classrooms. It dismisses the expertise of teachers. It dispenses with the necessity of having certified teachers teaching our children. In effect, it destroys the teaching profession in Ontario. But more than that, it has the power to close schools, abolish boards, seize reserve funds and wipe out programs. It concentrates all power over children, schools, teachers and school financing in the hands of the cabinet. It looks more like tough luck than tough love for the children of this province.

**Ms Clifford-Rashotte:** For example, one provision this bill proposes is that uncertified or unqualified persons may teach. In our view, it is tantamount to allowing uncertified or unqualified doctors to practise medicine. When it is your child or my child in the doctor's office or our children in the classroom, it is surely the professional that we want to care for them. We want all the professional training, all the ongoing professional development and all the experience we can find.

**Ms DeCiantis:** If we don't trust our cars to uncertified mechanics, how can we possibly rationalize entrusting our children to teachers who are not certified?

**Ms Clifford-Rashotte:** The fact is, we wouldn't. But every child in my classroom and every child in this province is deserving of and is entitled to the same quality of education I want for my own three children.

**Mr Bellissimo:** As teachers we are advocates for the children of this province. We know that for some of our students the classrooms we create are not only places to learn; they are a home away from home, or what their home should be.

As teachers we know and understand the impact of Bill 160. This bill is a disservice to the children of this province. It robs them of a quality education. Teachers will stand together to defend the right of all children to an excellent education. We will take whatever action we believe is necessary to guarantee that right for it is the teacher who shapes the classroom in which our children learn and grow.

Bill 160 purposely disfranchises teachers and takes away our ability to offer professional input into the system. It destroys our ability as teachers to preserve the integrity of our classrooms. We have always done that through our collective bargaining process, a democratic process, a democratic right. It is not a coincidence that since Bill 100, the School Boards and Teachers Collective Negotiations Act, learning conditions have improved dramatically. By denying our input, Bill 160 will destroy publicly funded classrooms in Ontario.

Henry Adams said it best: "A teacher affects eternity; he can never tell where his influence stops." As teachers, we believe it stops with Bill 160.

**The Vice-Chair:** Thanks for that presentation. You've used up your 10 minutes.

**Mr Pileggi:** We're not finished. We're still under 10 minutes.

**The Vice-Chair:** According to my clock here, it's 17 after and you started at 6:07. Thank you.

## TOGETHER IN EDUCATION, REGION OF WATERLOO

**The Vice-Chair:** The next presenters, Together in Education, have 10 minutes. Would you just state your names as you speak.

**Mr John Ryrie:** Members, my name is John Ryrie. I am this year's chair of TIE, an organization made up of the five local federations in the region of Waterloo who have worked together in education for more than a decade. The five people you see here today are the five local presidents.

In the two minutes I have I would like to make three important points. My first point is that this bill is unnecessary. As the purple and blue sheets at the back of your package will show, there is incredible excellence in all our schools in Waterloo county and there has been year after year, ranging from provincial athletics to national and international academic contests. The degree and range of student and teacher excellence is incredible. Mr Snobelen deceitfully chose to ignore all of it. His goals were built on a phoney crisis. Most of this bill is based on the same phoney crisis.

My second point is that the bill's premise that centralized authority will improve our schools is nonsense. Ontario's history proves this point. Three decades ago the ministry pushed open-concept classrooms on elementary schools. They did not work. This centrally mandated idea failed. Bob Rae four years ago forced destreamed grade 9 classes on every board. It was a disaster for every level of student in Waterloo county. It produced frustration, not better learning. The ministry's flip-flop on the Common Curriculum has caused untold millions of dollars of waste in time, money and resources.

More recently your own government's cuts have killed junior kindergarten in dozens of boards, even though early childhood education is the single most important investment we could make to improvement the learning of Ontario students. You have killed adult education as well, a program with a track record for getting adult learners into paying jobs. Given the obvious major mistakes of the past, the idea imbedded in Bill 160, that centralized authority will help students and schools, is very much a bogus idea.

My last point is that the bill is seriously misnamed, as other people have already indicated. It has nothing to do with improving education in Ontario schools, because it says nothing about supporting teachers or improving classroom instruction and delivery. It does not advocate smaller class sizes or maximum class sizes, improved teacher training, better-qualified staff, better buildings, money for new textbooks or resources for students who suffer poverty, mental illness or destructive parents. If the bill were really about improving education instead of gutting schools of money, talent, resources and support systems,

the bill would be filled with such a vision. In the absence of such a coherent vision, the bill is a sham.

**Ms Diane Greenhalgh:** My name is Diane Greenhalgh. I'm president of the local which represents FWTAO.

One core aspect of Bill 160 with which we have difficulty is the centralization of decision-making power to a group which is not directly responsible to the people who will be affected. We implore you to recognize the complexity and uniqueness of communities across our province and uphold the public's democratic right to make local decisions with a mechanism to directly affect those decisions. Working conditions should be part of a locally negotiated solution to unique situations. How can a cabinet in Toronto, for example, understand the special circumstances of delivering an effective learning program to a school made up entirely of old-order Mennonite students, for example, without knowing the local culture?

The lack of specifics in Bill 160 with respect to the undefined powers it grants to an unreachable decision-making body flies in the face of democracy. If Bill 160 should pass unchanged, critical decisions which profoundly affect the education of individuals can be made without input from key stakeholders and experts.

The key aspects of this bill — centralization of power, reduction of funding, elimination of certified personnel, dismantling the rights of local boards to negotiate their working conditions — do nothing to reach this government's stated goal of achieving excellence in education. We can only conclude that funding cuts are the real motivation for crafting the bill as it exists.

The public has been assured that any cuts will not directly affect the classroom. This results from a misunderstanding of what a classroom is as we approach the millennium. Excellence in education requires working as a team to meet the educational needs of students who make up today's eclectic, integrated classrooms. This government wishes to dismiss the critical role of such resources as librarians, special education support personnel and curriculum consultants in ensuring this excellence. Our classrooms in Waterloo county have definitely been negatively affected by cuts to these types of teachers which have already been made because of reductions in provincial grants.

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Lastly, in considering further cuts to education, please realize that these decisions do not stand alone in affecting the lives of children. Government cuts to other social programs have had an indelible and negative effect on the lives of children. Further cuts to their diminishing support systems will have a catastrophic effect on those most clearly in need.

It does indeed take a whole community to educate a child. Do not remove the power of our community to make decisions about how to educate our unique and precious children, whom we understand and the provincial government does not even know.

We, the teachers and citizens of Waterloo region, cannot support Bill 160 because of its unprecedented power in

the absence of specifics and the lack of the ability of the public to affect or appeal future decision-making. Please repeal the bill.

**The Vice-Chair:** The first speaker has used five minutes, so use your time accordingly.

**M. Yves Bouchard :** Mon nom est Yves Bouchard. Je représente l'AEFO et je représente un groupe de 45 enseignantes et enseignants francophones de la région de Waterloo, répartis dans deux écoles élémentaires et une école secondaire. Les coupures des dernières années ont grandement affecté nos écoles de langue française malgré un accroissement de notre population étudiante. Elles ont privé nos écoles élémentaires de deux positions à mi-temps d'enseignants bibliothécaires. Nous avons subi une augmentation de nos ratios. Malgré une augmentation des besoins particuliers de nos élèves, nous avons perdu les services d'une demi-position en enfance en difficulté.

Le projet de loi 160 dans sa présente forme menace l'éducation de langue française dans la région de Waterloo. Laissez-moi porter à votre attention le pouvoir que le cabinet se donne à désigner des postes qui peuvent être comblés par du personnel non enseignant. On parle de remplacer les enseignantes et les enseignants du cycle préparatoire, éducation physique, arts, musique, technologies etc, sans oublier la réduction du temps de planification au secondaire. Pour un groupe comme le nôtre, on parle d'une perte de sept à 10 positions, donc du quart de nos effectifs. Comment peut-on maintenir un enseignement de qualité dans de telles circonstances ?

Le cabinet se donne également le pouvoir de déterminer la taille des classes et les méthodes de calculs utilisées. Nous avons vécu une expérience similaire dans notre conseil. Sur papier, les résultats ne semblent pas catastrophiques mais en réalité, il en est tout autrement. Pour notre école secondaire, la perte d'enseignantes et d'enseignants aura des conséquences désastreuses. Il est très difficile de mettre en place une école secondaire dans un milieu où les écoles de langue anglaise sont en place depuis longtemps et bénéficient déjà de plusieurs services et programmes. Le projet de loi 160 ne donne aucune garantie aux francophones dans les milieux minoritaires.

Comment pourrions-nous garantir la protection et l'épanouissement de l'éducation de langue française et de maintenir un enseignement de qualité sans une garantie du gouvernement ? Sans aucune garantie pour nos petites écoles secondaires on parle d'une mort lente, car elles ne pourront plus offrir les services de base par manque de personnel qualifié.

La liste pourrait s'allonger mais ces points constituent la plus grande menace à l'éducation de langue française dans la région de Waterloo. Il m'est impossible dans de telles circonstances d'appuyer le projet de loi 160 qui se dit pour «l'amélioration de la qualité de l'éducation». Pour plus de 20 ans, les francophones de la région de Waterloo ont donné le meilleur d'eux-mêmes pour bâtir une éducation de langue française de premier plan : participation au projet CANOLAB de l'Agence spatiale canadienne, le prix Matthieu Da Costa et autres projets provinciaux et locaux.



Les enseignantes et les enseignants francophones cherchent constamment à améliorer leur travail et à donner à nos élèves un enseignement de qualité. Nous sommes toujours ouverts aux changements qui profiteront nos élèves, mais le projet de loi 160 ne répond pas à nos critères d'amélioration. Si le but de ce projet de loi est de mettre nos élèves premiers de classe, ma conclusion est que l'argent a malheureusement un long pas d'avance.

**Mr Brydon Elinesky:** We represent approximately 80,000 students and more than 4,800 full-time teachers in the region of Waterloo. All the students and teachers in the region have been adversely affected by the reductions in funding over the last few years.

Libraries have been closed for a portion of the week in some schools; students have lost opportunities to access outdoor education facilities; there have been reductions in extracurricular activities; music programs have been reduced; students have fewer opportunities for individualized assistance; junior kindergarten classes have been cut in the public board and class sizes have increased in the Catholic board; class sizes in all grade levels have increased; teachers have fewer supports for developing curriculum; teachers have fewer supports for teaching needy students, all this because more than 500 teaching positions have been lost in areas such as special education, consultants, teacher-librarians and classroom teachers. As well, reductions in support staff in the form of noon-hour supervisors, teacher assistants and outdoor education staff have had negative effects on the teaching of students in Waterloo county.

Bill 160 would allow the Minister of Education and Training to make further reductions to the teaching complement through regulation. The government's insinuations that it intends to reduce planning time and use unqualified people in areas such as phys ed, kindergarten, guidance, computer teaching, art, music, technology and library will result in the loss of another 600 teaching positions in our schools in the region of Waterloo. Will this improve the quality of education for students in Waterloo? Absolutely not.

**Ms Pat Cannon:** My name is Pat Cannon. I represent the Catholic teachers in Waterloo region. We, all the teachers of the Waterloo region, are very concerned about the scope of changes recommended in Bill 160 and the speed with which the government wishes to implement them. Our education system, simply put, cannot withstand any more cuts. I would like to add a little bit of a personal nature to some of the points that Brydon has just mentioned.

A grade 6 teacher in our system recently told of how she had 33 students in a classroom designed and built for 24. She was considering having bleachers installed into the classroom. If a new student is being escorted down the hall to the junior class wing she holds her breath and then gives a sigh of relief when the secretary takes the student on to the next room.

Another teacher related the story of overcrowding in his class. Last May while he was teaching in his portable, two technicians arrived with the new class computers. He

was asked where they should set them up. The teacher looked around at his class of 34 and asked the technician where they thought the machines would fit. Needless to say, the computers had to be set up somewhere else in the school. So much for being able to provide for the new technology in the classroom.

Teachers want to teach. They want to do a good job. Quality programs are currently being delivered by qualified teachers daily, across the province. If changes are necessary to improve the curriculum, teachers are willing to work collaboratively to adjust the programs as needed. They do this on an ongoing basis. If teachers are going to be required to come in a week early in August, to tell you the truth, the majority of teachers I know already do that.

**The Vice-Chair:** You are running out of time. If you'd wrap up, please.

**Ms Cannon:** Teachers have made more changes over the past 50 years than you could possibly keep track of, as each subsequent Ministry of Education and Training puts its own mark on curriculum, program and funding. Teachers have adapted and worked with many of these changes, those that actually have pedagogical strengths and purpose. Don't ask them to make changes that only satisfy some specific financial need. The job of teaching is just too important to waste that kind of time. On behalf of the nearly 5,000 teachers in Waterloo region, we all ask that you reconsider your direction and withdraw this destructive piece of legislation. Thank you.

**The Vice-Chair:** Is it the wish that you people come back at 7:10? That would give us about 40 minutes for supper.

**Mr Froese:** Mr Chair, I believe we have three openings, so I would recommend —

**The Vice-Chair:** It's only two.

**Mr Froese:** Only two. Then I would recommend that we take the full hour for supper and then go right through to the end.

**The Vice-Chair:** Is that what you want to do? Bud, before you leave, do you want to take —

**Mr Wildman:** I'm willing to do whatever you like. I don't think I need an hour for supper. Frankly, I don't think we'll have enough time to get supper.

**The Vice-Chair:** You don't need an hour? Okay, 7:10?

**Mr Gerry Martiniuk (Cambridge):** Make it 7:15.

**The Vice-Chair:** All right, 7:15.

*The committee recessed from 1828 to 1913.*

#### SCHOOL ADVISORY COUNCIL CHAIRS, BOARD OF EDUCATION FOR THE CITY OF YORK

**The Chair:** Good evening, ladies and gentlemen of the committee and ladies and gentlemen of the audience. We will proceed with our first presentation, the School Advisory Council Chairs, Board of Education for the City of York, Cathy Zeleniak.



**Ms Cathy Zeleniak:** Good evening. My name is Cathy Zeleniak and I would like to thank you very much for inviting me here tonight to speak on behalf of the School Advisory Council Chairs.

First of all, I would like to comment on the selection process for this hearing. If it wasn't for the fact that the city of York council of SAC chairs held our first meeting last Thursday, I would not have been given a mandate to voice York parents' opposition to this bill. I had very little time between the phone call on Saturday afternoon and tonight's presentation to consult with the parents I represent.

Thursday's meeting was my last as chair. At the meeting a motion was passed that the executive write a letter to the Minister of Education expressing our disapproval of Bill 160, of the lack of negotiations with the teachers, and a request for him to withdraw the bill. This motion was passed by representatives of 87% of our schools in the city of York. I should also add that the 14 or so community guests were in full agreement with the directions to be sent to the minister in this letter.

I am sure many of the concerns the city of York parents have about Bill 160 have already been voiced here today by other groups. First and foremost is the concern about the lack of open consultation with parents, teachers and the education community in general as to what may be needed to improve the education system. True consultation may have resulted in real improvement rather than a threatened withdrawal of services by teachers across the province. Parents and their children are caught in the middle of this present conflict between the province and the teachers' federations.

A vast majority of parents fully supports the teachers' proposed job action because they fear the changes Bill 160 will bring. They also worry about what will happen to their children if the teachers are forced to strike. Parents do, however, realize that the passing of Bill 160 and the anti-democratic processes it sets in place will do more harm to their children and grandchildren's education than a teachers' strike will. As well, this bill sets up the possibility of other similar bills outside of education that will fundamentally change the democratic processes we have all come to rely on as a guarantee of equity within our society.

A large part of Bill 160 is really labour legislation that nullifies existing contracts with teachers' federations. How will this improve our children's education? Bill 160, because of the labour component, allows the government to cut millions out of the education budget. Where is the money going to come from? Education budgets have been cut back every year for the past seven or more years. As many have said, there is no fat left to cut. Instead, these new cuts are aimed right at the heart of education, the classroom.

The city of York is a large working-class area with one of the largest ESL student populations. We enjoy what many parents consider the best education system in Ontario, based on fairness and equity for all our students. The equal funding of school boards across the province

will not recognize the unidentified special needs of a community such as York. What will happen to the unique educational needs of our community after Bill 160?

Bill 160 does not in any way lay down guidelines for improving the education system. Most of what the bill does is dismantle the present system and transfer the power and control of the system into the hands of the provincial cabinet and the appointed Education Improvement Commission. The regulations set in place by these governing bodies are final and not subject to any democratic procedure of appeal. This means that as parents we have virtually no say in the passing of regulations that affect our children's education, unless we can afford to send them to a private school. Is that the real agenda, to create a two-tiered system?

Schools are already increasingly identified as have and have-not schools. The demographics around the location of a school and the ability to raise extra funds for the school already contribute to a widening gap in the inequality of education. This access to equal education for their children is what parents fear Bill 160 will take away.

There are many programs within the city of York that are sponsored by the board of education that support the needs of the community. Many parents are afraid these programs will either disappear or become out of reach of those who need them the most because of the introduction of user fees. Under this government the increasingly clear message has been, "If you want more than the government will provide, then pay for it yourself." Bill 160 supports this agenda, even though the government constantly says that the result will be an improved system for every student in Ontario. Well, we don't believe it. Parents do not believe Bill 160 is about improving education. Instead, we know it is about power and control over money.

We want the bill to be withdrawn or drastically amended immediately to ensure our democratic right to have a say in our children's education; and we want the minister to know we fully support the job action by the teachers, even with the hardship it may cause many of us.

I could go on and on listing concerns parents have voiced about many parts of Bill 160 that make drastic changes to every aspect of education, but as the government has consistently shown, they really don't have the time or motivation required to listen to what the electorate has to say.

I have brought the vice-chair of the current executive of the council of SAC chairs for the city of York, Bill Worrell.

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**Mr Bill Worrell:** Thank you for allowing me the opportunity to speak to this committee. My name is Bill Worrell. I am the vice-chair of the York Board of Education Council of SAC Chairs and the chair of the Rawlinson Community School Advisory Council. I don't have much time so I will try to be brief.

I'd like to comment first on the consultation process. As a parent who has many job- and family-related responsibilities, I find this consultation process undemocratic and offensive. I learned yesterday that I would have the



opportunity to speak to this committee. By no stretch of the imagination could this be considered adequate notice to prepare a meaningful deputation to this committee.

The text of Bill 160 is huge and complex and filled with language that is challenging to understand. Preparation of presentations such as these demand concerted effort and time. Sharing a 10-minute time slot can hardly allow for any meaningful analysis or debate to be developed. Indeed, the process of choosing deputants raises many questions. Why were hundreds of requests to appear turned down, while my colleague received an unsolicited invitation?

The Rawlinson School Advisory Council and Bill 160: Our SAC has discussed the major points of the bill, "SAC" meaning the school advisory council. Our major concerns about the bill are as follows.

(1) Accountability: Major decisions about funding, organization of services and programs will be made through regulation changes in orders in council. Parents will have no input on these changes, which could include huge funding cuts. Thanks to the elimination of local school boards through Bill 104, our very part-time school trustees will be inaccessible. Under this bill these same school trustees will have no power to raise funds and will be essentially powerless to make decisions about major education policies. Parents will have nowhere to turn to influence the decisions that are being made, not even their own MPPs.

(2) Funding levels: Local financial control is eliminated under this bill. Bill 160 creates the capacity for cabinet to implement major funding cuts to many highly valued programs in our city: heritage language programs, special education services, support to newcomers, community liaison officers, not to mention bus transportation and the use of teachers' aides in our schools.

It will be left to the schools, already stretched to the limits, to increase fund-raising capacities to continue these programs. Cuts to these very vulnerable programs directly hurt parents in my school, largely working-class and with many newcomers. We probably have one of the most diverse populations of any school in Metro. We do not have confidence that this government will understand the needs of our school. Should a central government be allowed all this power?

(3) Unqualified teachers: Replacing teachers with individuals with little or no classroom training will not improve the quality of education; it will only save money in the short term. The education system can only be improved with the use of certified teachers in every classroom. I am a parent who has long advocated for teacher accountability and high-quality education for my children and their classmates. I have never once contemplated in all these years that we should be lowering the teaching requirements in our classrooms.

**The Chair:** Excuse me, sir. You only have about 40 seconds left.

**Mr Worrell:** I'd like to speak to the role of parents. As an active parent in my school, I believe in parent involvement. This bill mentions parent councils as a

means to involve parents in schools, but is vague on the exact role of these councils. In my daughter's school, there are many barriers to parent involvement, whether it be shift work, being a single parent, trying to survive on two and three jobs, language and cultural barriers. Our volunteer members devote many hours working on school issues that are important to us, but as all volunteers will tell you, we have our limits.

Our council is very clear. We don't want to run the school; that's the principal's job and it's the school board's job to ensure the job is well done. We want to advise and we want to be able to influence policies. But we will not be part of a government plan that will "hand over" power to parents in schools. We don't want that power and without a well-funded infrastructure to support the council's work, parents would have no clout to really affect policy-making. In the end, the schools that have more financial means to harness volunteer participation could benefit from such power, while schools such as Rawlinson will be left behind in the inter-school competition.

This is the first step, we fear, towards the development of a two-tiered education system, an underfunded public system for the unlucky ones and a growing private school system for those who can afford it.

Our council supports teacher opposition to this bill. We call on the government to withdraw the bill so that reasonable time will be allowed for negotiations with teachers and a truly democratic consultation process can occur.

**The Chair:** I thank both of you.

JOANNE CLARKE

**The Chair:** We'll move on to our next presentation, Joanne Clarke. Good evening, Ms Clarke. Please proceed.

**Ms Joanne Clarke:** Good evening. Thank you, members of the committee, for the opportunity to speak to you about Bill 160. I am here tonight as a parent, as a mother of three young children, two of whom are presently in an elementary school within the Toronto Board of Education.

I am a former president of the home and school association at my children's school. I am a founding member of the East End Parent Network in Toronto, a Girl Guide leader, a Sunday school teacher and a music teacher in a nursery school. My life is filled with helping to meet the needs of my children and other children in my community.

I am also married to a Toronto high school teacher, but I address you tonight as a mother who deeply loves her children and wants the very best for them as citizens of Ontario. I want nothing less for any of the children in this province.

It is in this context then that I have read Bill 160, and I have read it cover to cover several times now. As a parent and as a citizen of Ontario I find the bill to be deeply disturbing in that it offers absolutely nothing to guarantee quality education for the children of Ontario.

Even though the bill is entitled the Education Quality Improvement Act, I found not one clause in the 219 pages



of the act that ensures our present standard of education in Ontario will even be maintained, let alone improved.

However, while the bill gives us nothing, it takes away plenty. It takes away the rights of parents, students and teachers to have any kind of meaningful participation in developing the educational agenda in Ontario. It takes the education system of this province away from the people of Ontario, away from the people this government was elected to serve, not to control, and it hands it over in total to the Minister of Education and the other members of cabinet.

The bill states that all school board members, officers or employees must "comply with any order or direction of the minister," and those who fail to do so will be guilty of an offence. Attention. Welcome to education in the new Ontario.

The bill gives the Minister of Education, through regulations, the total power to do such things as sell schools, close schools, fire teachers, eliminate programs, use non-certified teachers or even dramatically increase class sizes without any discussion or debate in the Legislature.

The main purpose of an order in council or a regulation is that it allows the government to act hastily, needing only the approval of the cabinet and the signature of the Lieutenant Governor. However, the power to act hastily and without opposition has in the past proven dangerous for Canadians and has allowed our governments to take steps that we as a people have later regretted.

On January 19, 1943, Canadian member of Parliament Ian Mackenzie, under Liberal Prime Minister William Lyon Mackenzie King, sought cabinet approval for the dispossession of Japanese Canadians. On January 23, four days later, the cabinet agreed and under the War Measures Act an order in council was passed that granted the custodian of enemy property the right to dispose of Japanese Canadian property in his care without the owner's consent.

While Bill 160 is not the War Measures Act, it does give the Minister of Education the power, with great speed and no debate in the Legislature, to virtually dispossess our children and all Ontarians of our public education system. Like the War Measures Act, Bill 160's orders in council cannot be challenged in a court of law. No effective opposition, no accountability.

Giving the Minister of Education such total control and the power to move hastily is not good for education in Ontario and it is not good for democracy in Ontario. As one Canadian historian recently stated, "The Harris government forgets it scored an election, not a coup." Running our schools like an army, which is what could happen under Bill 160, is bad social policy and will dangerously erode our democracy.

In countries like Chile, for example, where democracy was stripped away from the people, one of the first acts of General Pinochet was to take rigid control of the education system and to privatize the schools.

Dave Johnson and the Harris government have abused democratic process and with this bill are attempting to legislate autocracy. Bill 160 is full of loopholes you could

drive a Mack truck through. The minister has offered almost no guarantees of funding and essential details are absent in the legislation.

Personally, I wouldn't buy a car with this kind of contract. It would be like a car salesman saying, "Sign here today and tomorrow I will tell you how much the car costs and what condition it's in." None of us in our right minds would sign a contract under these conditions, yet the Ontario government wants us to hand our entire education system over under the same conditions.

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While the Minister of Education has been telling the parents of Ontario that under Bill 160 we will be able to participate in our children's education like never before, the bill only states that the minister, by regulation, will have the power to establish school councils and to determine who will have the right to be on those councils and what role those councils will play: total control by the minister and dangerously devoid of details.

As parents we will no longer have any input into significant issues such as the method of school funding and the rate of education tax we pay. These issues will not even be debated in the Legislature. This means our education system will only be as good or as bad as our Minister of Education and the other members of cabinet.

If Bill 160 is not about education quality, what then is it about? Over 100 pages of the bill are devoted to education finance issues. I think that strikes at the real agenda in this legislation. If one reads this legislation through the lens of a financial agenda, the agenda of economic growth in the marketplace, it all makes sense. Why would the Ontario government set up the Ontario College of Teachers to ensure our certified teachers meet certain professional standards and then, under Bill 160, legislate the use of non-certified teachers in any teaching position? Because non-certified teachers can be paid less money.

Why cut teacher preparation time if quality is the agenda? Because it isn't. Downsizing is the agenda here because fewer teachers can then teach more classes, enabling the government to save money by firing thousands of teachers.

Why give the minister the power to govern class sizes? Because you can either put 60 to 80 kids in a class or cap class sizes while eliminating music, gym, special education and by putting these teachers back into the classroom. If boards or schools want these programs, they can raise the money by themselves. While Bill 160 calls for equal funding, there is no guarantee this means each board will be funded to the level of the very best of what any board now has. It could mean each board's funding will be reduced to the bare bones of education finance.

Even the minister's handling of these hearings gives us some clues into the government's agenda with Bill 160. It is now public knowledge that the Minister of Education himself handpicked most of the participants at these hearings. While thousands of Ontario citizens and education organizations applied, the minister actually invited several business organizations to speak, including the Ontario Home Builders' Association, the Alliance of Manufactur-



ers and Exporters and the Canadian Federation of Independent Business. It's my guess these organizations will (a) encourage the minister to run our schools like a business; (b) tell the minister how our children need to be educated to meet the needs of the marketplace.

As a mother I find this abhorrent and think the values of this government need to be reversed. For the sake of my children, for all children and all the people of Ontario, the demands of business and economic growth need to be managed and qualified so that they meet the needs of our children and human development in general.

To the Minister of Education, I offer this in closing: You are not just dealing with the opposition of 126,000 teachers across the province. I react to Bill 160 like a mother bear whose cubs have been threatened. You are hurting my children and the children of Ontario with Bill 160. You are hurting their schools; you are hurting their democracy. There are thousands of mothers and fathers like me across the province and we will not back down until you kill the bill.

**The Chair:** Thank you very much for your presentation.

#### ONTARIO ASSOCIATION OF CATHOLIC FAMILIES

**The Chair:** Our next presentation is the Ontario Association of Catholic Families, Brian Taylor.

**Mr Brian Taylor:** As a general statement, classroom schooling is a public service provided to parents by the church and by the state, through their respective public institutions, as required by the principle of distributive justice and within the limits of the principle of subsidiarity. While it is true, because of the principle of distributive justice, that funds have to be collected by taxation, it does not follow that public authority may override the duties and rights of parents in the education of their children.

The slogan that "It takes a village to raise a child" is being fostered nowadays to advance a mentality which does not properly take into account the responsibility and role of the family, and right relations between the family and the larger society. The idea that educational policy and curriculum may be determined wholly by public authority, presumably in the best interests of the child as estimated by the state, flies in the face of the parental duty and right in education.

The Universal Declaration of Human Rights adopted by the UN General Assembly on December 10, 1948, assures us in article 26(c), "Parents have a prior right to choose the kind of education that shall be given their children."

I have to apologize at this point; I failed to pick up from the table as I left the house tonight copies of the Charter of the Rights of the Family, which I wished to place before you at this point. Is there a way I can hand them in? I'll have to ask about that later on. This charter was drawn up by the Holy See at the explicit request, in the fall of 1980,

of Catholic bishops from around the world and was published on October 22, 1983.

As it says in the seventh paragraph of the introduction, this charter is addressed principally to governments as a point of reference for drawing up legislation and family policy. It cautions that attention to human rights "cannot ignore or permit violations of the fundamental rights of the family." Because "these rights arise, in the ultimate analysis, from that law which is inscribed by the Creator in the heart of every human being, society is called to defend [them] against all violations and to respect and promote them in the entirety of their content." Both of those are from the introduction.

The preamble of the Charter of the Rights of the Family states, among the givens, "that the family is based on marriage, that intimate union of life in complementarity between a man and a woman which is constituted in the freely contracted and publicly expressed indissoluble bond of matrimony, and is open to the transmission of life; that the family, a natural society, exists prior to the state or any other community, and possesses inherent rights which are inalienable; and that society, and in a particular manner the state and international organizations, must protect the family through measures...which aim at consolidating [its] unity and stability so that it can exercise its specific function."

Among the family's specific functions — and not limited to these — are education, which is dealt with in article 5 of the charter and its role in the construction of society, in article 8.

The right of parents to educate is connected to the transmission of life. Parents have the original, primary and inalienable right to educate their children because they have conferred life on those children. All parents have the right to educate their children in conformity with the reality of the family as expressed in the preamble of the charter, as I mentioned a minute ago, and in the context as well of article 3 of the charter.

Speaking as a Catholic, this fact is implicit in the marriage ceremony, wherein the two persons about to marry are asked, before they exchange their vows, "Will you accept children lovingly from God and bring them up according to the law of Christ and His church?" The public acceptance of their duty and right to carry out this mission, with the assistance of schools which meet the criteria of the Catholic Church, absolutely must be respected and protected. This education encompasses not only the revealed truths of the Catholic religion, but also the moral law and the social doctrine of the church.

I began by mentioning two principles: the principle of distributive justice and the principle of subsidiarity. The application of the principle of distributive justice to education is expressed in article 5(b) of the Charter of the Rights of the Family. This also supports the right of parents to home school, as does the UN Declaration of Human Rights.

Section 112 of Bill 160 makes changes to section 234 of the Education Act under the heading of "Legislative and Municipal Grants." The bill proposes that regulations

governing the distribution of grants for educational purposes are to be allotted in a fair and non-discriminatory manner between public boards and Catholic boards and are to respect the rights given in section 23 of the Canadian Charter of Rights and Freedoms.

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Section 23 deals with the language rights of Canada's English-speaking and French-speaking citizens. One must respectfully insist that education according to religious rights be respected and fostered according to the consciences and needs of the parents.

A concise statement of the principle of subsidiarity, which is expressed in the remaining subsections of article 5, is as follows:

"A community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good."

The way in which education reforms are being managed by the government of Ontario is in direct violation of the common good, the principle of subsidiarity and the right of families to exercise their social and political function in the educational endeavour and in the construction of society.

Bill 160 is a case in point. This bill proposes the centralization of power and closed-door decision-making at the highest level of government. This could be challenged as being *ultra vires*. The bill is being rushed through with a minimum of public input, despite the fact that changes in education have a profound effect on persons throughout their whole lives, not to mention the lives of those who are yet to be born and who will constitute future generations.

The concept of the classroom teacher functioning in loco parentis no longer has any truth to it if the teacher is now to be acting in the place of the Minister of Education and Training. This, in effect, defeats the rights of parents in the education of their children.

Removing the power to tax at the local level and re-establishing it at the provincial level means that taxes go into the provincial coffers without a specific amount being applied to education as such. These taxes become general revenue, some of which is then allocated to education as the government sees fit. This means that both curriculum and funding are subject to the whims and needs of the party in power and not to the needs and rights of parents.

I must respectfully urge the members of provincial Parliament to take a cue from these words of Tony Blair, the new Prime Minister of England, who said in a speech to his own party on September 30 of this year, just about three weeks ago:

"We cannot say we want a strong and secure society when we ignore its very foundation: family life.

"...I am a modern man leading a modern country and this is a modern crisis: nearly 100,000 teenage pregnancies every year. Elderly parents with whom families cannot cope. Children growing up without role models they can respect and learn from. More and deeper poverty.

More crime. More truancy. More neglect of educational opportunities. And, above all, more unhappiness....

"I give you this pledge. Every area of this government's policy will be scrutinized to see how it affects family life, every policy examined, every initiative tested, every avenue explored to see how we strengthen our families, and you will have a ministerial group to drive it through."

Thank you very much.

**The Chair:** Thank you very much for your presentation. Your timing is also impeccable. It's exactly 10 minutes. Thank you very much, Mr Taylor.

**Mr David Caplan (Orléans):** Mr Chair, by my watch the length of the last presentation and the one preceding it were under 10 minutes.

**Interjection:** Under nine minutes.

**Mr Caplan:** Under nine minutes.

**The Chair:** No. By my watch the last presentation was exactly 10 minutes and six seconds.

**Mr Caplan:** Ten minutes and six seconds? I'd appreciate if you could let us know the exact starting time of each presentation.

**Interjection.**

**The Chair:** Thank you, sir.

**Mr Caplan:** I have a question of the —

**The Chair:** Mr Caplan, excuse me. That's not a point of order. You're wasting our time.

FIONA NELSON

**The Chair:** Fiona Nelson, please.

**Mr Wildman:** Perhaps the clerk should invest in a stopwatch.

**Ms Fiona Nelson:** I have a stopwatch which I'm about to start.

**The Chair:** Good idea.

**Ms Nelson:** Mr Chair and members, although I'm grateful to have been given a chance to speak to you, I feel that these hearings have been overtaken by events today. We're now on the verge of a totally avoidable strike, one which will create a losing situation for all of us.

This bill, in spite of all the government protests to the contrary, has nothing whatsoever to do with the improvement of education. The phrase, "Lieutenant Governor in Council," a chilling phrase, means that no amendments to the details of the bill will expunge the essentially disrespectful and centralizing flavour of this bill. There is nothing that can save this bill from the stench of an effective coup d'état, even though we all know that you have the constitutional power to do this — and more.

But an important question must be asked: Because a thing can be done, should it? This is an ethical question, not a political one, and what this bill proposes is fundamentally unethical. I propose that you (1) withdraw the bill. Don't amend it. You cannot eat a rotten fish, no matter what spices you use to mask the smell. (2) Reinvest all the savings, if there are any, which I doubt, in the investment in young children. There is a mass of excellent research to show the big payoff this would produce. (3)



Reintroduce a bill that will genuinely improve education but not until the funding model has been made public. Doing all this without knowing where the money is coming from and how much is absurd. We're electing a whole covey of trustees who haven't got the slightest idea what the scope of their job is. Then we will know that improvement is what you have in mind.

I was a participant in a Metro task force called the First Duty. This was our report, which we published in May. It's called the First Duty because it quotes John Ruskin: "I hold it indisputable that the first duty of a state is to see that every child born therein shall be well housed, clothed, fed and educated till it attain years of discretion." I do not see that happening as a result of this bill; in fact I see the opposite.

Trustees, teachers and parents have long understood this and have designed many programs to get children ready to learn and benefit from their schooling. My board, the Toronto Board of Education, spends millions a year on these programs. We've even produced a book to explain them. The previous Minister of Education felt that they were not instructional programs and therefore would probably not be funded. We have full public support for these programs. This bill would put these programs in jeopardy. I am talking about programs, such as child care, parenting programs, parent-child drop-in centres, school food programs, that sort of thing.

Please kill this bill and, in a spirit of genuine concern for this province's children, start again. I'll be happy to deliver a print copy of my remarks with a couple of appendices tomorrow. I apologize for not having time to get a copy ready for you tonight. I commend your staff, who I must admit must have worked all weekend to get the hearings ready. I would be happy to answer questions in my remaining seven minutes.

**The Chair:** Thank you. We have approximately two minutes per caucus. We'll start off with the government caucus.

**Mr Smith:** Thank you for your presentation. I appreciate the comments you've made. Certainly the issue in part for you centres around funding, and I would agree with you that there has to be a different approach to how education in this province is funded. I respect the comments you've made about the regulatory powers of the Minister of Finance in this regard, but certainly this bill contemplates a new approach to finance. I appreciate as well the comments you made about the funding formula. You as a trustee will know that we as a government have been working since approximately May to secure technical input into that funding model, to ensure that it adequately meets the expectations of all people who would be recipients of that.

I appreciate your comments. I feel strongly that the bill in part is addressing — I'm obviously not going to convince you of some of the issues that you felt very strongly about in your presentation, but the proposal to move to a different funding alignment with respect to education in this province I think is overdue and needed.

**Ms Nelson:** Presuming that was a question, I'll answer it.

**Mr Smith:** It was a statement actually.

**Ms Nelson:** I think the assessment changes that have been made have changed a long-time stable form of revenue, property tax, into a highly unstable one. I am extremely concerned about how the funding is going to come about. The fact that the government itself has taken the precaution of assuming there will be 600,000 appeals tells me that even the government agrees that it is highly unstable and unreliable, and I think that's a great pity. I certainly hope that when the funding model is published, it will take into account some of that. As well, I think it's extremely important for the funding model to take into account that in this vast province there are huge differences among communities, and one size, I can tell you as a fat woman, does not fit all.

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**Mr Caplan:** It's interesting, particularly in light of the comments of the last committee member, that I recall that in second reading the parliamentary assistant claimed there was nothing in this bill about the financing of education. It was strictly about the title of the bill, which was quality improvement in education. I find that somewhat strange. I can get Hansard for you, if you'd like, sir.

**Mr Smith:** Please do.

**Mr Caplan:** The so-called Education Quality Improvement Act gives the government, as you have said, unilateral powers. Is it your view that not only is the direct result of these powers and the control by the Ministry of Education contrary to the title of the act, but that there's a deeper motive on the part of the provincial government in exercising those powers and granting itself those kind of powers to deal in the affairs of education?

**Ms Nelson:** I don't particularly want to speculate about motives. I've heard of a billion dollars being extracted to pay for the income tax rebate bruited about. I can't imagine that people would deliberately destroy a perfectly good system in order to fulfil a silly promise, so I can't believe that rumour is true.

I suspect that there is a very strong motive to control things and that they appear out of control simply because different boards in different parts of the province have responded in different ways to various problems. I don't see anything wrong with that. It used to be called democracy and I think it's a perfectly reasonable process.

Certainly at our board, we've had no provincial grants for 12 years at least, and so we've been on our own as far as paying for things out of local rates is concerned. Representing the same ward, as I have, through nine elections, I have had no complaints from constituents about the amount of tax that is required to run the system. I have had letters from parents saying, "Please tax me more and add this program." I have certainly heard from a great many people about the need for enhancement of the programs we have. In Toronto we presently feed 22,000 children a day. We know there are more children who need to be fed.

**Mr Wildman:** I think you've hit the nail on the head when you say that this bill is about power and control. It's about vesting control over the education system in the hands of the Minister of Education and Training and the Minister of Finance and the cabinet.

You've talked about the power to make regulations. I'd like to deal specifically with the changes in the financing. We don't know what the funding formula is and we won't until after this is passed, it seems, which is certainly putting the cart before the horse. What studies has your board done in terms of what you think will be the ramifications of the changes in funding? As you've said, for the last 12 years the Toronto board has raised its own rates. Under this bill, the Minister of Finance will set the mill rate and will determine what grants are available. Obviously this means taking money out; it has been speculated up to a billion dollars. There's a number going around this place now of \$600 million, not \$6 billion. Most of that money is going to come out of Toronto and Ottawa. Has your board done studies as to what it may mean in terms of less money for educating students in your board?

**Ms Nelson:** We have done some studies. It's rather difficult, because our board, for over 100 years, has integrated a great many programs that the minister's KPMG study said were not related to the classroom and that we feel were. We did them often in conjunction with the board of health in Toronto and that sort of thing. It's difficult to disentangle the costs. But we feel that the estimate of about a quarter of a billion dollars' worth of programs in Metro are likely to bite the dust and these are largely programs that support young children and their families in getting ready for school. I think it's tragic if those things, which have been around for many, many years, will bite the dust. For the Metro board, it's difficult but the estimates are around a quarter of a billion dollars' worth of programs that are not considered instructional, in-class programs.

**The Chair:** Sorry, our time is up. Ms Nelson, thank you very much for assisting us this evening.

#### DORETTA WILSON

**The Chair:** Doretta Wilson is our next presenter. Good evening.

**Mrs Doretta Wilson:** Good evening, committee members. I am a parent of three school-aged children. I was born in 1954. This is truly unremarkable except for one thing: I feel fortunate to have been born that year. It meant that I got to graduate from elementary school in 1968, because in 1968 the Hall-Dennis report, *Living and Learning*, was released. I personally narrowly missed the mess this gross error of pedagogical thought made of education in Ontario. Until now, that is, now that my own children attend Ontario schools.

The child-centred, progressive thrust that followed has been attributed to the decline of Ontario students' academic achievement and spiralling costs of education to the taxpayer. This led to the formation of the education reform

movement and is ultimately why Bill 160 needs to pass today.

It is ironic that when the Hall-Dennis report was released, the Ontario Teachers' Federation criticized the report for its vagueness. Study after study has shown that child-centred, progressive education, as opposed to direct instruction methods, is responsible for the massive erosion in literacy and numeracy in our students. Our Ontario education system, now the most expensive in Canada and one of the most expensive in the world, produces some of the poorest achievement outcomes.

Child-centred learning requires small class sizes. After all, you can not have 40 children working in groups, exploring, discussing, chattering. It's just too noisy and downright chaotic for the teacher to monitor everyone. Over time, with increasing numbers of students being identified now as learning-disabled, we needed more teachers. They needed more special education programs. Programs required more consultants and they needed more resource people. All these people had to be supervised. When this generation of poor learners hit high school, the same thing occurred and teachers asked for more and more preparation time to handle the work of trying to get through to their pupils. More and more money got spent, now in the billions of dollars, and things got worse, not better. You get the picture. If the OTF didn't like Hall-Dennis in 1968, you can be sure they love it now.

I quote from the book *Could Do Better*:

"Over the decade to 1990 the school-age population in Ontario dropped, and the number of students increased by barely over 0.5% annually. Yet local government spending on education tripled, with school board employment showing average yearly increases of 2%, and remuneration growing close to 9% per year...supervisory officers and consultants increased by 22%," and non-teaching clerical and paraprofessional staff by 84%. "In the secondary system, the number of consultants grew by 80% and the number of teachers and principals working outside the classroom increased by 128%."

In the Toronto board, only 46% of staff work in the classroom.

The need for Bill 160 to pass is urgent. It is time this juggernaut and its administrative excess is stopped. Someone has to take command over the direction education in this province is going to go. No one giant special interest group mainly concerned with its own self-perpetuation should set their education agenda in this province. We must make increased student achievement our top priority.

In the past, all three parties have acknowledged that our students are not achieving as they should and that education reform is necessary. Nor is it the first time a government has tried to implement change. The Liberals tried it in 1981, the NDP got the ball rolling again in 1992, and now we have Bill 160.

Two amendments to this bill are crucial, however, to lead to academic success for our students. I urge you to consider this possibility before the passage of Bill 160.



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First, principals and vice-principals should be removed from the teachers' collective bargaining unit and be a separate unit. Principals are the first level of middle managers in the school board hierarchy. They are solely responsible for implementation of education policy. They are the key to success in schools, but they are never accountable for school failure. Lumping them in with the teaching staff perpetuates this lack of accountability.

Second, remove the word "advisory" when describing school councils. The councils can have the ability to make schools accountable for their results. They can ensure that programs of study are effective through observing the results of student assessment. They can hold principals accountable for policy implementation. As it stands, "advisory" will mean poorly performing principals can continue to pay lip-service to parents and the community with no recourse.

It does not matter what party's government is in power. Education reform will not go away. Parent reformers like myself have gone before each of the last three governments to ask for improvements to the system. My children are not getting any younger. I might have been lucky to have missed the effects of Hall-Dennis but they have not been so fortunate.

**The Chair:** We have approximately one and a half minutes per caucus.

**Mr Wildman:** Thank you for your presentation. Can you indicate to me what in the bill specifically you believe will increase the quality of education for your children and will help to improve that, keeping in mind that throughout the bill the control and power over decision-making is concentrated in the bureaucracy at Queen's Park and in the hands of the minister and the cabinet rather than there being any real local control?

**Mrs Wilson:** Quite frankly, education reformers like myself consider issues like class size and preparation time irrelevant to quality education. It doesn't matter how much preparation time a teacher uses if they're teaching the same old same old. These are not important issues to us. These are important issues to the teachers' federation —

**Mr Wildman:** You say, "If they're teaching the same old same old," but if they are actually using their prep time to innovate —

**Mrs Wilson:** But they're not.

**Mr Wildman:** Teachers are not?

**Mrs Wilson:** Over 30 years we've known they haven't done that, so teachers' federations and their ilk seem to stymie every move at education reform. Every time a government comes out with a curriculum or some form of change, it is usually met by a negative response from teachers' federations.

**Mr Wildman:** I wasn't talking about teachers' federations; I was talking about individual teachers using prep time.

**Mrs Wilson:** And I'm telling you that is not an issue for education reform. That is probably a small point to us. It is a matter of control.

**Mr Newman:** Thank you very much and I appreciate your coming down before the committee today to speak from the heart on education. You spoke in your presentation about appearing before the last three governments with respect to education reform. I'm wondering if you might enlighten us all and compare and contrast what this government's doing to reform education versus what the previous governments have done.

**Mrs Wilson:** This has been the only government that has actually tried to implement the changes everybody's been talking about. It's been the only one to actually have the guts, if you want to put it that way, to do it.

**Mr Kennedy:** You identify yourself as being part of parent reformers. I presume there are groups and affiliations that you might have in that regard. There seems to be a hostility or at least some questioning of teachers in this whole process and I'm wondering —

**Mrs Wilson:** Not teachers.

**Mr Kennedy:** I want to give you an opportunity to clarify that, because I think it seems anybody not perhaps as versed as your group — some of the teachers, some of the others — that if there's going to be an education system that really puts children at the centre here, there's going to have to be some collaboration, some cooperation. Is it not at least a little disconcerting to you to see that teachers are in the kind of outlook they are? They were described earlier today as one of the most conservative groups in society and here they are, very upset, prepared to lose income, to leave their jobs, to do things because they want to see that those interests aren't put second. Do you not think that cooperation and collaboration of teachers is going to be necessary to get some reform or do you think it can be done without them?

**Mrs Wilson:** You've made two interesting comments. You talk about teachers, and I don't confuse teachers with the teachers' federations.

**Mr Wildman:** You didn't say that, though, when I asked you the question.

**Mrs Wilson:** Excuse me. My own sister is a teacher and I've heard comments from her and her co-workers who say: "They're not listening to us. We just want to do our jobs. We just want to go in and teach the kids." I think the other point you mention is very important: putting the children first. Everybody here has to remember to put the children first.

**The Chair:** Thank you, Ms Wilson.

GAY YOUNG

**The Chair:** Our next presenter is Gay Young. Welcome. Everyone should have received a copy of Ms Young's presentation.

**Ms Gay Young:** My name is Gay Young and I'd like to begin by asking the question, is a government acting in good faith when it introduces sweeping legislation and then pushes it through second reading and to public hearings in just a few short weeks?

I am thankful for the opportunity to speak today when a thousand others won't be heard, but I must respectfully

question this government's right to limit the number of people who will be heard and then to set aside the usual process and invite those the government wished to hear speak on its own bill first before inviting others who had signed up to speak. I am deeply troubled by this erosion of democracy and I am losing a lot of sleep over the changes this government's making so quickly.

Today I will speak from both my head and my heart. I speak from my head as someone who has read Bill 160 and from my heart as a mother who cares passionately about my own two children and our public education system. I've always been an active volunteer in my school and I'm on the executive of our parent-staff association. My own community school is full of wonderful, hard-working, dedicated teachers, like my daughter's teacher, Mrs Flemington. Teachers do care about children, and it's a good thing too, because our kids spend as much of their day at school as they do at home. My daughter's in a grade 2 class of 30 children. Her teacher does teach child-centred learning in small groups very successfully and it's been very difficult for her to do that this year with 30 children compared to the 26 she had last year. I support our teachers in any of their efforts to change this legislation.

There's a huge difference between speaking and being heard. I know that because I spoke at the Bill 104 hearings too. So I've come here today to outline specific areas of the bill which I respectfully ask you to amend. I also pose several questions to the government members of this committee and I'll keep my points as brief as I can. I hope to allow time for answers.

The bill in its present form absolutely terrifies me. If it passes, this will likely be the last time I will have the opportunity to express my concerns across the table to anyone who will have the power to make changes or decisions in education, because all the power is going to be here at Queen's Park. The scale will be tipped. Power will be taken from our trustees, our boards of education and our teachers and bestowed upon the province and its appointed Education Improvement Commission whose orders, according to the bill, could not be reviewed or questioned in court. I am opposed to the loss of this local level of democracy and I reject unquestioned authoritarian power.

Equally frightening is what has been left out of this bill, mainly the details of how it will actually work to improve education for my kids and the other kids in Ontario. In its present form, this legislation allows for all those details to be figured out later behind closed doors without ever having to be debated in the Legislature or through public hearings. Using orders in council, you, the cabinet, will be able to govern through regulation.

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(1) My first suggestion. You're asking for concrete things; here it is. All the sections of the bill that begin, "The Lieutenant Governor in Council may make regulations," need to be struck out and amended to include specific details of what you will be putting in those regulations.

(2) What is the new, fair and equitable method of funding education? The funding details are missing from this bill. It must be amended to include a full funding model so parents will know which programs will still be funded and which ones will not. For example, will my neighbour, and indeed all four-year-olds in this province, be able to attend junior kindergarten next September? I don't know that. It's not in the bill. Ernie Eves says he doesn't think the net result will be \$1 billion out of the education system, so I'm asking you today, specifically, how much is the government aiming to cut?

(3) Which subjects is this government going to allow non-teachers to teach? The present Education Act is very specific in this regard, and I'll read part I, subsection 8.1(10):

"The minister may grant a letter of permission to the board authorizing the board to employ as a teacher a person not qualified as such if the minister is satisfied that no teacher is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the minister may specify therein."

In contrast, in Bill 160, subsection 170.1(3)(e), it reads:

"The Lieutenant Governor in Council may make regulations designating positions that are not teaching positions and duties that are not teachers' duties and prescribing the minimum qualifications for the designated position or for performing designated duties."

It's wide open. Any position could be designated non-teaching.

If Dave Johnson really isn't planning to use this power, as he recently assured the Ontario College of Teachers, then this section should be struck from the bill. If this section is not to be deleted, then it must be amended to include a list of what subjects can be taught by unqualified teachers as well as detailing what qualifications these individuals will require. I think it's fair for parents to know what qualifications you're going to allow non-teachers to have.

(4) Class size. If your intention is to cap class size, the bill must be amended, as there is no minimum class size protected in the bill. The bill simply says in subsection 170.1(1), "Every board shall comply with such requirements as may be prescribed under subsection (3) concerning the size of classes in its schools." Subsection (3)(a) states, "The Lieutenant Governor in Council may make regulations governing the size of classes in schools of boards and governing the method of determining the size of classes."

After deleting "The Lieutenant Governor in Council may make regulations," I'd like to see the act amended to set a clear maximum class size. The method of determining any average class size should also be clearly set out in the bill to avoid misrepresentation. It should not include special or unusual classes, such as special education classes of fewer than 10 students. I think that's how you came up with the average class size of 25 right now for grades 1 through 8. Any parent in Ontario can tell you that their child is not in a class that small. What would the



maximum class size be for grades 1 to 8? I hope it would be between 20 and 25 students, and that, I hope, would be the actual class size, not the average.

I have enclosed my address and I would like to receive a copy of the amendments that you make to this bill. I hope you will answer my questions now, but should any of my questions remain unanswered today, I hope you will send me the answers by mail.

**The Chair:** We have approximately 40 seconds per caucus and we will start with the government.

**Mr Froese:** If you had those things clarified, like class size and what the role of, for lack of a better word, uncertified teachers would be, would you support the bill?

**Ms Young:** If you took out all the sections that begin, "The Lieutenant Governor in Council may make regulations," and if I knew what the funding model was and I knew whether education would be funded properly or whether your intention is simply to cut —

**Mr Froese:** If you had all of that, would you support the bill?

**Ms Young:** If it was clear that, yes, you were going to fund a good education system such as the one we have now, I could support it, if you gave me the information so I could know that you were honestly setting out to improve education in Ontario.

**Mr Caplan:** Thank you for your presentation, Ms Young. I doubt very much that you'll get those answers to your questions from the government. It says here that you're an executive on your school advisory council. Many have thought that part of this bill is an agenda to effectively co-opt parents into running the school system for the Minister of Education in association with his edicts. Are you interested in doing something like that, being an active parent yourself? Do you want day-to-day hands-on running of your school?

**Ms Young:** Definitely not.

**The Chair:** Your time is up, Mr Caplan. We must move on.

**Mr Wildman:** I'll be very brief so that you'll have a chance to answer. Basically, you're saying to take out the regulatory power and put in the specifics on class size and funding, and then we'll have a better opportunity to judge this bill. That's the main point you're making.

**Ms Young:** Yes, that's the main point I'm making. We cannot say whether we would support a bill that doesn't have any information in it to give us what we need to know about whether schools will be funded properly, for instance.

**Mr Wildman:** I'm sure we'll get the funding formula before the end of these hearings.

**Ms Young:** That would be wonderful.

**Mr Wildman:** It'll be \$600 million less.

**The Chair:** Ms Young, thank you very much for attending.

ANGELA KENNEDY

**The Chair:** Our next presentation will be Angela Kennedy. Please proceed.

**Mrs Angela Kennedy:** Good evening, ladies and gentlemen. It is my pleasure to speak to you this evening. I am a parent of seven boys, four of whom at present attend Catholic schools. I respect and admire teachers. My mother was the first woman principal in York region and two of my sisters are teachers. I graduated from Notre Dame High School and St. Joseph's School of Nursing. I have a strong union background, as I was a founding member of Local 115 ONA and local president for over 10 years. At present I sit on two school councils and have been affiliated with the provincial Catholic parent organization for over 10 years.

Since I am an independent thinker, a futurist and a strong proponent of change, I do support Bill 160 for the most part. I remain somewhat worried about the future of Catholic education and the ability of Catholics to maintain control over the governance of their school system.

I understand why the Education Improvement Commission has recommended that the ministry be the all-powerful body to oversee education. It is because the school boards have done a less-than-adequate job on behalf of ratepayers, parents and students. There has been no accountability. There has been only limited access and minimal communication with parents.

I believe that this government has already, through progressive thinking and through Bill 104, done some very good things for our children. Standardized testing, standardized report cards, school councils, board advisory committees, these are key cost-saving measures and key to improved quality education.

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I am in agreement with qualified professionals in fields other than teaching being part of a team who would teach my children. My own children from as early an age as JK have recognized that the music, art, physical education and computer technology curricula have been taught by teachers who have little or no expertise in these areas. This leaves the children with feelings of frustration, boredom and embarrassment.

Do we really need to have professional teachers doing yard duty and lunchtime supervision? Can the safety of the children not be addressed in any other way? I like the idea of teams. Teachers could take on the role of leader, coordinator, facilitator. Teams could be made up of a yard duty person, a secretary, an artist, a musician, a physical education instructor and perhaps three or four teachers. The teachers would deliver the curriculum perhaps to all the grades but maybe in only one subject, and the computer technologist would teach this course to all the grades.

I have on many occasions been frustrated by the absence of accountability to parents. If a teacher is not doing their job or is doing a poor job, there is no avenue whereby parents can receive satisfaction. I believe that the person who has the right to hire and fire should be the person who is directly accessible and accountable to the parents.

If class size was capped, then the school boards would have no choice but to design policies to address maximum enrolment numbers, thus equalizing student numbers, thus

addressing school closures and overcrowding. We would have remapping of the boundaries, and then perhaps we would have classes of fewer than 35 students. Perhaps at some point after this happens parents might get an explanation of the resources allotted or not allotted to each classroom.

I would encourage the ministry to hold fast on taking control of class size. The unions have been able to influence class size through negotiating other benefits, and the boards have invented a formula for teacher allocation per student that allows for cloaking of services with no accountability. I had firsthand experience recently of the MSSB negotiations with the union to negotiate for the teachers their social contract, to regain their place on the grid, their loss of the social contract days, and now they have regained them on the backs of our children. PTR has been increased.

I believe that the legislation must be strong enough to support the boards in their negotiations, that class size, prep time, learning time and extracurricular commitment time must be detailed and clear so that the promise of equity and fair funding can become a reality. You cannot, for the sake of good-quality education, leave flexibility in these areas to the boards and to the unions.

I share with others in the Catholic community a concern about section 243, fair funding. However, I feel that the government does recognize the uniqueness of our Catholic schools and will continue to allow for the preservation of that unique education in a fair and equitable system.

It is appreciated by anyone who works in a professional capacity that prep time is very important. I believe that teachers should have paid prep time but that it should not impact on the learning time. I believe that involvement with the children in what are currently termed extracurricular activities should be deemed to be intracurricular activities and should be mandatory and shared equally among all teachers in a school for ultimate quality education.

As the primary educator of my children, I feel that I deserve to be consulted more often, I deserve to be communicated with more often. I would like the legislation to address regulations around communication technology to improve access to teachers. Teachers need to be in the classroom, yes, but they also need to spend considerably more time with parents. Parents should be sharing more often in the decisions that directly affect their children's education. It is very unsatisfactory to spend two weeks playing telephone tag with a teacher. That is no way to run a business, especially when the product is a human being. All teachers should have voice mail and there should be many more telephones within schools for the use of the teachers and students, and teachers should have access to fax machines.

I applaud the move towards local school governance, but I am not sure that parents are quite ready for this responsibility. There is a great deal of work involved in sitting on a school council. Parents already have two jobs, raising their children and raising enough money to live on. To weaken the power of a board of trustees by offering

them meagre token honoraria seems to me to be incongruent with the government's aspirations on behalf of our children for better-quality education. Governance at the local level will be fragmented, inadequate, shoddy and without strength and support from a strong trustee governing structure. However, this structure and these people should be there for parents, children and ratepayers, not for the unions and not for the ministry or for the other partners in education. It is the local school councils that need them.

As a parent, I feel that we owe it to our children to give them the best education possible. It is my hope that the teachers, rather than seeing these proposed changes as a threat, will welcome the opportunity to influence the reforms in a positive way. These proposed funding cuts will only impact on the classroom if we parents and educators allow them to. If we try to do things in the same way with less money, we will be defeating the purpose. We must think differently, act and react in a new way.

I would just like to remind the government in closing that in order to keep the best interests of the children always in mind, you should remember that children like consistency, familiarity, continuity, caring, kindness, minimal disruption, security and comfort. What is important to children is what matters to parents.

**The Chair:** I calculate we only have about 30 seconds each.

**Mr Kennedy:** You seem to be saying in your remarks that you're happy with parts of the bill and you're not as happy with getting rid of school trustees and local consultation. Is that correct?

**Mrs Kennedy:** That I'm not happy with getting rid of —

**Mr Kennedy:** Getting rid of the powers of local trustees and not being able to have effective school boards?

**Mrs Kennedy:** Right. I think we need —

**Mr Kennedy:** I'm just wondering. The general tendency of the bill is to give the power to Queen's Park bureaucrats and to the minister and to not even let elected officials, let alone local elected officials, have any access to the shape of the system. How do you see that as fulfilling your goal of having parents, you in particular, having more to say about your children's education?

**Mrs Kennedy:** I don't think that money is power or that power is —

**Mr Kennedy:** But it's the powers part we're talking about in the bill, which puts all of what used to be in the hands of your local school board into the hands of the minister and outside the reach of the Legislature.

**Mrs Kennedy:** I'm not sure that's right, because I think the money is in the hands of the ministry and that local decisions will be made by trustees.

**Mr Kennedy:** Sadly not.

**Mrs Kennedy:** I have confidence that they will.

**Mr Kennedy:** I wish that many in this province could have that level of confidence.

**Mr Wildman:** I'll try to be quick. I found your presentation, I must say, a little confusing. I'll explain why. You say that you want teachers to spend more time with



parents, but you seem to be saying you support the cuts in prep time. You say that you want to have more decision-making locally, but the bill gives control over not just the funding but curriculum, class size, the organization of schools, the organization of the school year, the school day, to the bureaucrats and to the minister by regulation. They're not made locally. I'm a little confused. I'd like you to clarify.

**Mrs Kennedy:** There will be some decisions made locally.

**Mr Wildman:** Yes, who runs the cafeteria — which is important.

**Mrs Kennedy:** But I think there will be some pretty important decisions that the trustees will be making. There will be caps.

**Mr Smith:** Thank you for your presentation. If you would briefly elaborate on your experience with class size and the negotiation process, please, because earlier today we heard from OECTA and clearly they indicated to this committee that that wasn't the primary motive or practice of their association.

**Mrs Kennedy:** Recently there were negotiations between MSSB and OECTA where the PTR was increased from 16 to 17, and that's impacting on class sizes. Our class sizes went up by one.

**The Chair:** Thank you, Ms Kennedy, for your presentation.

**Mr Wildman:** Just as a matter of clarification, Chair: I'm sure we wouldn't want to leave the impression on the record that increasing PTR by one is increasing class size by one. In fact it would be increasing class size by substantially more than one.

**The Chair:** Thank you for that clarification.

**Mr Caplan:** Mr Chair, I want to clarify as well —

**The Chair:** Excuse me. If you wish to speak to me, it's got to be a point of order. A point of clarification is not acceptable.

**Mr Caplan:** You accepted the last one.

**The Chair:** By whom?

**Mr Caplan:** By Mr Wildman.

**The Chair:** Yes, because he spoke too quickly and I couldn't get it in. I'm sorry, Mr Caplan, but I think we've decided a little way by that a point of clarification is not a proper order to raise.

2030

#### STUDENT TRUSTEES FOR THE ETOBICOKE BOARD OF EDUCATION

**The Chair:** Mr Scott McDonald is next. Could you identify those others at the table with you, Mr McDonald, and proceed.

**Mr Scott McDonald:** Can I allow them to introduce themselves?

**The Chair:** Certainly.

**Mr Aaron Richards:** My name is Aaron Richards and I represent Thistletown Collegiate Institute.

**Ms Leslie Gross:** I'm Leslie Gross and I'm the student council president of Etobicoke Collegiate Institute.

**Ms Kelly Maguire:** My name is Kelly Maguire and I am the secretary of the ECI student council.

**Mr McDonald:** First of all, I'd like to thank you for this opportunity to voice the concerns of Etobicoke students. My name is Scott McDonald and I am a student trustee for the Etobicoke Board of Education and chair of the Etobicoke student council, a position shared with Monica Butta, the other student trustee.

I would like to present the results of a student-prepared referendum open to all Etobicoke secondary students regarding Bill 160, and I'd like to read from the Toronto Star. This is in A16, Saturday, October 18. The title is "Etobicoke Students Vote Against Education Bill." It quotes me as saying, "Our objective is to bring Etobicoke students closer to the issues that affect them," and it goes on, "But he added that there has been far too little public consultation on such a weighty matter." He quoted me quite accurately.

The referendum was preceded by information assemblies run by students in some of the schools, and three announcements in each of the secondary schools. We tried to keep the announcements as factual and as impartial as possible, but I must admit that we found it very hard to support the positive points of this bill. Reading now the results are the three students I have brought representing the secondary schools across Etobicoke.

**Mr Richards:** From Central Etobicoke High School, 87.2% of the voting body voted against Bill 160. From Etobicoke Collegiate Institute, 92.2% of the voting body voted against Bill 160. From the Etobicoke School of the Arts, 94.4% of the voting body voted against the passing of Bill 160 and from Kipling Collegiate Institute, 89.2% of the voting body voted against the passing of Bill 160.

**Ms Gross:** From Lakeshore Collegiate, 92.8% voted to withdraw Bill 160; from North Albion Collegiate Institute, 92.6%; from Richview Collegiate Institute, 91.1%; and from Scarlett Heights Collegiate Institute 87.8%.

**Ms Maguire:** Silverthorn Collegiate voted 88.1% to withdraw Bill 160. Thistletown Collegiate Institute voted 91.4% against Bill 160. West Humber Collegiate Institute voted 92.7% against Bill 160.

**Mr McDonald:** The total for all of Etobicoke: 8,020 voted, 732 students voted against it. That's 91.3%.

I'd like to read from Bill 160, section 257.45. This has already been addressed, but I don't think it can be over-addressed. It's called "Powers to enforce orders":

"Where a board fails to comply with any order, direction or decision of the minister under this division, the minister may, on the notice, if any, that he or she considers appropriate, do or order done all things necessary for compliance with the order, direction or decision, and may exercise all the powers of the board for the purpose, under its name."

Other students who have also read this are very concerned that there is way too much central power and far too little local democracy. This issue of local democracy is very critical. As a student trustee I know how much information trustees have to cover in each of their board meetings, and often these meetings run very late into the night.

This is just Etobicoke. No doubt at mega-board meetings the amount of information dealt with will multiply radically. This fact, coupled with the increase of trustees' area represented and the capping of trustees' salaries at \$5,000, will violently diminish any and almost all power and capabilities of a trustee.

Why would the minister want to rob the decision-making power from the trustee? No doubt to make space for the ministry's new policies and proposed education changes. This is terribly frightening. If the government wants to impose their structures and policies throughout the Ontario education system, we will come near to a form of standardized education in Ontario. None would disagree that a program running in northern Ontario would be radically and ridiculously out of place in inner-city Toronto schools.

The point I'm always hearing from students is that we the students have firsthand experience of education. We sit in the classrooms, walk the halls of our schools and spend our days in these schools. If we as students have this sort of insight, why has there been no consulting with us? The crux of this argument is that there is far too little public consultation, especially with students.

Some students also believe that Bill 160 is not about education quality improvement, as it is titled, but rather about money and power. Why can't the government just say this? As a student I feel like I'm being lied to. I'm going to leave you with a few thoughts. Time has shown that change does not always equal progress and, furthermore, if it ain't broke don't fix it. I think if you ask any students anywhere in Ontario they will agree, and my referendum results validate this statement.

The message is "Get your hands off our education and don't you dare balance your budgets on our backs." Some students have also put it this way. The government has a copy of Bill 160 under one shoulder, a copy of their personal agendas under the other and a copy of Orwell's 1984 in their back pocket, and they don't know which document is which. Thank you for your time. Are there any questions regarding the concerns raised?

**The Chair:** We have one minute per caucus and we'll start off with Mr Wildman.

**Mr Wildman:** You said, if it ain't broke don't fix it, and I think, as I said to one other student group today, that your presentation is an indication that the system isn't broken, but the previous minister spent two years trying to convince the public that the system was broken. Why are you so concerned as students about the concentration of decision-making at Queen's Park as opposed to local boards? I realize that you're a student trustee and represent your fellow students on the board, so why do you think students — your referendum obviously shows they've got some serious concerns.

**Mr McDonald:** I think the point, and I did address it in my presentation, is that standardizing of education will not work in Ontario because programs are different throughout Ontario. We have programs running in Etobicoke that I know wouldn't work in Scarborough and vice versa. Furthermore, programs running in individual schools are

very different. All this diversity means that if we standardize the education, we'll be losing so much and gaining so little, and I just don't think that's a positive step. I don't think, and this is the point, that's a quality improvement of education; maybe a tax cut, but why isn't it called that then?

**Mr Rollins:** I've got a couple of things I'd like to ask and you probably aren't going to have a chance to answer them all, but one of the things that the regulation states is that the Lieutenant Governor in Council may make regulations. It doesn't say he has to make regulations. He may make regulations. I ask you who should make those regulations and I don't expect an answer right at this second.

I also wonder, when your voting was going on, what member of the Progressive Conservative Party and supporters of Bill 160 spoke at your assembly previous to your voting or whether it was just the teachers that spoke in favour of Bill 160 and those definitions.

I also want to know what role in the responsibility to improve the Education Act you would have to make a life better for you that I'm sure all your experience with grey hair and experience in life would lead you better off down the road?

**The Chair:** Mr Rollins, your time is up. We will move on to — do you have a point of order?

**Mr Caplan:** In point of fact those comments were out and out rude to the presenters.

**The Chair:** That is not a proper point of order.

**Mr Wildman:** He's just saying father knows best.

**The Chair:** Who is representing the Liberals? Mr Caplan has the floor.

**Mr Caplan:** I'd like to thank Trustee McDonald and the other students for coming and making an excellent presentation. I would like to ask you about your referendum results. I wonder if you'd tell us a little bit — almost two thirds of students came out and of those over 90%, 91%, a very significant and overwhelming number of students, have said this bill is wrong for them. You've outlined a number of reasons. Tell me a little bit about who was speaking to the students and what the students were saying. I'd like you to answer the previous speaker's questions about representation at your meetings.

2040

**Mr McDonald:** This referendum was conducted purely by students and for students. There was no involvement of teachers in the structure of this referendum. That was carried out quite well, and for obvious reasons.

**Mr Caplan:** Right on.

**Mr McDonald:** It was a student goal, and that's what we met. Furthermore, the assemblies and such that were held were a collection of students sharing ideas and students sharing their own opinions. We did ask for the government to send whatever information they could from their own perspective. I know the students' league asked this government if they could come to one of their meetings. Both times there was no response.

**The Chair:** I thank you very much for your excellent presentation.



## JANN FLURY

**The Chair:** Our next presenter will be Jann Flury.

**Mr Jann Flury:** Mr Chairman, committee members, ladies and gentlemen, my name is Jann Flury. I am a retired management consultant to the offshore oil industry. I have conducted business in various parts of the world. I am familiar with standards of education in many countries. I am speaking as a concerned taxpayer and grandparent here tonight.

The bitter rhetoric and resentment over Bill 160 poses a question: Are there conflicts of interest in the bill that can't be resolved? To avoid confusion and cut through the haze of partisan bias, let's establish some facts and basic priorities.

(1) We must all recognize and respect the importance of teachers and elementary education, because what we teach our children today will become the philosophy of our nation tomorrow.

(2) Aside from the mother and family, the teacher is the most influential person in a child's early life.

(3) The top priority in considering Bill 160 should be the improvement of our children's elementary education, primary and secondary, grades 1 to 12, nothing else.

(4) The object of elementary education is to give students an academic foundation that lets them progress to higher learning or to a rewarding position in the workplace.

(5) The most fundamental objective of elementary education is to teach our kids the three Rs in the first four to five years: to learn the English language, to read, write and spell, and to do basic arithmetic, including memorizing the multiplication tables. I'm sure everyone agrees with that, because without this foundation, the student can't effectively progress to other academic studies.

There are two basic issues raised by Bill 160, as I see it. The first is how to improve our kids' education, and the second is centred around power, whether teacher unions and educators or the ministry should call the shots. Unfortunately, the issue of improving kids' education has been buried under a rubble of rhetoric and propaganda, and the power struggle is the only significant issue left and recognized by educators.

In order to make rational sense of Bill 160, one only has to look at the picture of elementary education in Ontario today. One has to ask the question, is something really wrong with our education system in Ontario? The answer, unfortunately, is a resounding yes. Large numbers of students today have to take remedial classes and many allegedly have learning disabilities. By international standards, our students' performance is mediocre at best. Our universities complain about the lack of literacy and math skills that high school graduates demonstrate when they arrive at their doorstep. So there is something wrong with our system that needs fixing.

Who is at fault? Unfortunately, in the cold light of day, one would have to point the finger at the classroom. That puts the onus clearly on the teacher. This of course is not entirely correct and totally unfair. After all, the teacher is

only the messenger. No one can deny that our education system has been, by and large, left in the hands of educators and regional school boards over the last 20 or more years. It has been an unprofitable venture, and the management has been less than professional, sort of like letting irresponsible juveniles house-sit for you. Educators have let us down badly. They dropped the ball.

The problem becomes evident if we look at the varied curriculums and subjects taught across Ontario. There is a lack of emphasis on academic learning, and no consistent criteria for measuring achievement exist. Our schools have become swamped with fuzzy curriculums that somehow, through politically correct thinking, are supposed to prepare our kids for life in the next millennium and the global village, whatever that is. Teachers and students spend much time, effort and taxpayers' money on these many counterproductive courses. All this is done at the expense of the traditional academic subjects needed for the workplace or for higher learning.

These modern and vague pseudo-philosophical curriculums are foisted on our educators by a selfish education industry that produces studies, reports and statistics as marketing tools to peddle an unending line of new educational products, including curriculums, books, videos, films and other visual resources. Their motive is profit, pure and simple, not quality education. They are like a parasite plugged into the taxpayer-money cow, and our educators have become the unwitting host.

However, in the final analysis, teacher unions, school boards and, to a lesser degree, our teachers must be held accountable for the cost of education and the lack of student achievement. Most troubling is the fact that none of these groups admit that there is anything wrong with our present education system, much less accept any kind of responsibility.

How do we fix our education problems? Is Bill 160 the magic bullet? From the track record, it is evident that in some cases boards and administrators have been careless with the stewardship of our children's education and played fast and loose with taxpayers' money. They have been misled by the education industry into making bad decisions and purchasing useless curriculums and resources. In view of all this, no logical argument can be raised against the need to overhaul our system and make changes in leadership roles.

This finding is further reinforced by the fact that neither teachers, administrators nor elected school boards are willing to accept responsibility for the failure of our education system. In fact, none openly admit there is a problem, and they insist that in any case, if there is a crisis, it has been instigated by the ministry and not them.

The contentious parts of Bill 160 seem to centre around working conditions, number of jobs and job security for teachers. None of the hotly debated issues have any direct bearing on student learning, and many of the arguments raised against the bill by the unions are transparent, showing little interest in improving education standards. The unions want more money spent on education and

claim that less is bad. I think it's a rather irresponsible reaction under the circumstances.

Here are some conclusions and recommendations:

Morally and rationally, in view of past performance, our education establishment cannot object to the ministry taking a more active leadership role in elementary education through the implementation of Bill 160. In the past, not enough attention has been paid to results. Our system is failing not because of insufficient funds or bad teachers but because of vague curriculums and overspending on expensive, non-academic resources. The solution isn't more money, but a focused academic curriculum.

We must standardize curriculums and testing across the province and hold schools and district boards accountable. We must — and I'm talking about the taxpayers — adopt a policy of one bona fide textbook per subject per school year. This will cut preparation time, simplify teaching, raise standards and cut classroom costs dramatically.

Outcome-based education methods, child-centred learning, the whole-language approach to reading and all the non-academic frill curriculums must be scrapped in favour of a better grounding in the academic subjects.

A good education is the inherent right of every child in Canada. Our country has been judged the best in the world by the United Nations. Our goal should be to ensure that our children receive the best education in the world by the year 2000.

Finally, we must not lose sight of the fact that the beneficiaries of our education system are supposed to be the kids, not the education industry.

Teachers, please join parents and the ministry in support of Bill 160 and deliver quality education to win back your professional reputation. Thank you very much.

2050

**The Chair:** My calculation only has 30 seconds per caucus, so you have time for a statement, really, not a question.

**Mr Wildman:** I noted that you pointed out that the United Nations has judged Canada to be the best country in the world. The components of that are education, health care and standard of living. That's how they make those judgements. They consider our education system to be one of the best in the world.

**Mr Smith:** Certainly you've raised a number of issues with respect to quality initiatives, particularly around curriculum, and I would say that the government is moving in the direction to deal with that. In your opinion, does Bill 160 compromise the quality of education in this province?

**Mr Flury:** Not at all. I support Bill 160. We're in a situation where we're sort of at the last gas station before the desert and we're running on empty. So it's pretty logical —

**The Chair:** Thank you. We have to proceed.

**Mr Flury:** Okay.

**The Chair:** It's very difficult.

**Mr Kennedy:** We note with interest your comments about the education industrial complex being responsible for all the ills, but we wonder if it's that simple. The attitude towards teachers seems to want to put them out of the

picture, and yet you talk about outcome-based education as being a bad thing. That was what this government put in place with its curriculum. The minister has always had the power to control the curriculum and it's been there. I guess we have to say that in your presentation it's hard to say where you can see that taking money out of the system —

**Mr Flury:** Your statement is incorrect. Pardon me for interrupting.

**Mr Kennedy:** Excuse me, sir.

**Mr Flury:** This government has not put outcome-based education in place, so get your stuff square.

**Mr Kennedy:** Grades 1 to 8 curriculum, sir. It's hard to see how taking money out of the system is actually going to improve quality.

**The Chair:** Sorry, Mr Kennedy. Our time is up in any event.

**Mr Flury:** You're totally out of line.

**The Chair:** Mr Flury, thank you very much for your presentation here this evening.

#### SCARBOROUGH PRINCIPALS' ASSOCIATION

**The Chair:** We are now proceeding to the next presentation, the Scarborough Principals' Association. Welcome. Could you identify yourself and proceed. We have allotted 10 minutes.

**Mrs Vera Taylor:** Good evening. I'm Vera Taylor and I'm principal of Sir John A. Macdonald in Scarborough, and this is my elementary colleague, Jack Madden. We are here on behalf of the 167 schools in Scarborough and the 83,000 students we represent. We are a little sorry that the democratic process here only provides us 10 minutes to comment on the wellbeing of these students, but we will attempt in a succinct way to give you our personal observations as principals of what will be the impact of Bill 160. I'm going to call on my colleague Jack to present the elementary picture first.

**Mr Jack Madden:** Stop me when I get to my five minutes.

First, it's hard to resist the temptation to debate the previous presenter, so I'll try to succinctly —

*Interjection.*

**Mr Madden:** Yes. Obviously one of the concerns from the elementary panel is junior kindergarten and kindergarten, junior kindergarten because it's not being funded and therefore will probably disappear, and kindergarten because the government obviously doesn't think it's very important. They didn't supply us with any curriculum or report card, and have indicated that unqualified people could be teaching in there.

On a day-to-day basis we see with our own eyes, and we have a huge body of research to indicate to us, just how very important these grades and the primary division are in terms of a child's entire education. The first decade of a child's life provides learning opportunities that will be lost forever if we don't seize them.



I've never had the courage to teach kindergarten, I'm sorry to say, but I did teach in the primary division and it was the hardest job I ever did. A primary teacher — and a kindergarten teacher is a primary teacher — has to program, track, assess and teach all of these highly energetic, curious, filled-with-enthusiasm youngsters. It takes skill, expertise and training. I think we need to be putting our best teachers with our youngest students, not unqualified people during these critical years.

We have research to establish that although success in the primary division doesn't guarantee success in secondary school and post-secondary school, failure in that area almost guarantees failure later on. There's a huge correlation between dropout rate, delinquency and poor academic performance. So these are hugely important areas.

Scarborough has a very diverse population, and so these programs, along with early identification and interventions as well as special education and our ESL programs, these sorts of things that would be victims of budget cuts, help to give us at least some semblance of a level playing field when kids start their educational career. I think these would be lost, and they are critically important and are not frills.

The other thing I'd like to address is the proposed capital funding model, which seems to be very simplistic and based across the board on a snapshot at a given moment in time. A school has a life cycle that reflects the demographics of the community it serves. It may start off being nicely full, then be overcrowded, then under-attended, and then over again as the community changes. It would be very sad to apply this formula and have some schools that are overattended telling students that they need to go someplace else, not the community school, or a school like mine, which is currently grossly underattended by the formula, being given away, assumed by the province or whatever. I think my community would have a very difficult time with that. I fail to see how that would improve education.

When I divide 80 square feet into my school, which is a senior school for early adolescents, we end up having a suggested population of 850. We currently have about 340. That's because my school has a gymnasium with change rooms, two shops, two family studies rooms, a cafeteria, a lab and an arts studio. That's not taken into consideration, and I know this isn't atypical. So I think the funding formula, the specifics that we do have about that little piece of it, is arbitrary and unfair, and until we see the whole funding formula and have the facts, it seems unfair to carry on with the bill.

Lastly, and stop me if I'm going too long here, we have a great deal of problem with the absolute unchecked power that the government wants without really giving us any indication of how they are going to accomplish this stuff. I think elementary teachers, principals, students, parents and the community are the stakeholders here. They are the ones who should be rolling up their sleeves and working in partnership with the government to do the things that we all want: improved standards, accountability, and the biggest bang we can get for our educational

buck. We want that. We'd like to see legislation that would put a framework in place for that partnership to work and not just to isolate the power centrally.

**Mrs Taylor:** I'd like to pick up by discussing some of the main issues that impact on the secondary school: to begin with, the concept of prep time.

"Prep time" is a misnomer for learning support time. It originated in the 1970s when we began to change from rote learning into more activity-oriented learning. We needed this time not only to prepare the lessons and the activities, but as stresses increased on our students, we needed this time to support them personally and emotionally and through the tutoring that is required to close the gaps in the widely diverse population we serve.

Scarborough is an interesting location because it is the global village. There are students there from 90 countries of origin, more than 60 first languages, and more than 35 religious affiliations. So we need to be able to respond to the specialized students in the global village. It is not fair to only have the time to prepare a very sanitized, standard lesson when you know that the children you serve represent a broad variety.

I could schedule a 25% or 50% reduction in prep time, and I have calculated in the package for you what that would look like in my school. A 12.5% reduction would cut off 12 of my 96 teachers. Moving on, you can do the math for yourself. At the level that's being suggested, the number of students in my school wouldn't change, but the teachers would be cut. How will that affect class size? Simple mathematics will show you.

The other thing that is not being at all quantified in Bill 160 is the whole issue of the cocurricular program in school: the sports programs, the clubs, the enrichment activities, all of these various factors. We have done research in my school and we know that the average teacher at my school spends 286 hours in the cocurricular program. This is where students learn race relations, leadership development, responsibility for large projects and tasks. These are the skills for the new millennium. They are not learned sitting in rows in a classroom, writing on a blackboard. They are not learned in the traditional ways that are implicit in Bill 160.

## 2100

I cultivate in my school a "willingness quotient" among all my teachers. I look upon that as the major job of a secondary school principal. If you read your package, you will see that there are 58 programs provided in the Mac menu. These programs are the ones that produce the social connectedness between the secondary teacher and their students.

I have also included for you in the package the research that's been provided by the Journal of the American Medical Association on the largest and most extensive longitudinal study on the wellbeing of adolescents. This study clearly indicates that where there is social connectedness between the student and the teacher, this is the greatest protection factor in high-risk behaviours that cost society a great deal of money.

This whole issue of why the teachers are rising up in response to Bill 160 has to do with, what is the societal value of the educator in the year 2000? I can change back to the pedagogy of 60-minute periods and I can structure one more class for each of my teachers. They would then have, instead of 180 students, 225 to serve in a more standardized, impersonal way. I could do that, but that would mean devastation in Scarborough. It would lead to a two-tier system for the haves and the have-nots, and the programs that we have come to revere that save, that assimilate immigrants, that teach the very best in citizenship in Ontario would be lost.

I want to speak to decertification. Decertification of the seven subject areas that are referred to in The Road Ahead would take 34 of my 96 staff members away.

I want to speak about finance, because we are already at the financial brink in secondary schools. I have 37% less to run my classrooms on, my computer collection is half obsolete, textbook prices have doubled in the last five years and we cannot continue any more cuts.

Also, as leaders — all my principal colleagues share this — we have worked our whole career looking at educational research. Research shows that class size, lengthening the school year and lengthening the school day, which are the factors in Bill 160, have no correlation with improvement.

What does have a correlation over decades of educational research is investment in early childhood education, which Jack has already referred to; tutoring and individualized help; the cocurricular bonding that happens in the cocurricular program; and the home support and parental involvement. All of these are attacked by Bill 160. I do not have faith in this bill on a research basis, because what matters is attacked and what doesn't matter is structured.

I believe all the members of Parliament understand that this bill has been put in place, or one very similar, in Alberta. You know now, three years later, what is the result: larger class sizes, integrated disabled students without teachers' aides, inadequate busing, with children walking along country roads to pickup spots instead of being picked up at their homes, and the cocurricular program in Alberta has collapsed. You can find that out for yourself. That is why the teachers are taking to the streets.

**The Chair:** I'm sorry. I let you go over a minute — I signalled you and unfortunately you've gone over a minute. I must cut you off right there.

**Mrs Taylor:** May I just wind up? The problem is not —

**The Chair:** That was the signal. You've already gone over a minute. I thank you very much for your presentation.

The next presentation is Mr Ken Lauder.

**Mrs Taylor:** May I leave one document with the committee?

**The Chair:** You certainly can. Just give it to the clerk.

**Mrs Taylor:** We invited the members to attend our Scarborough forum. Some 850 parents have sent their message on this videotape.

**Mr Newman:** I'm from Scarborough and I can tell you I never received an invitation.

**Mrs Taylor:** Mr Crysler called you.

**Mr Newman:** What he did was he invited me to go to the meeting. He did not invite me to stand before the meeting.

**Interjection:** Mr Chair, is this in order?

**The Chair:** I am trying to get Mr Lauder to proceed.

#### KEN LAUDER

**The Chair:** Welcome, Mr Lauder. I'd ask you to proceed.

**Mr Ken Lauder:** I did not bring you a written presentation. I figure you're going to get an awful lot over seven or eight days.

I'm a teacher; I've taught for almost 30 years. I'm a parent. I have a daughter in grade 8 and I have a son in high school. I'm a taxpayer.

I don't want to deal in detail with Bill 160. I am in opposition to Bill 160, probably for the standard reasons you're going to hear over and over, including the idea of allowing the Minister of Education so much power over the system and all the other things with the prep time, the firing of teachers and things like that.

I also recognize that you've got yourself in a position where you solidly believe this. You're not doing this just for the fun of it; you believe it's the right thing to do, so you have to do this. I recognize that's a tough position.

I don't know how governments work. I'm sure you get together and once you've figured out that you can make it not only cheaper but better, you have a moral obligation to do that. If you can get rid of 10,000 teachers or 6,000 teachers and make the system way cheaper, one way or another you've got to do it. That's just the way it is. Clearly I think that's a ridiculous idea. Then you've got to sell it and say, "More teacher contact time." You know what that means. You'll have the teachers teaching longer, to bigger classes.

I have been teaching forever. In some ways, that's an easy way to teach. We've found out over the last two years that you measure success in the school system by standardized tests. If you give a guy like me a chance to teach to a standardized test, that's a piece of cake, if you give me the curriculum ahead of time. That's the school system I went to in the 1960s. My mother taught in that school system; she started in the 1930s. It's a great school system if you're just preparing for the age of steam or the Industrial Revolution. For the 21st century, to memorize the longest river in South America — I can still remember, from 1962, the six causes of the First World War, the Schlieffen plan. I know there were six causes.

**Mr Wildman:** Some people might confuse you and say there were seven.

**Mr Lauder:** Incidentally, we beat both France and Germany in that last international test, where the Slovenians beat us.

What I really want to talk to you about, what worries me tremendously — I know you guys know what you're



doing; you've got the right idea, without a doubt. I don't have all the facts and figures. I teach in the system and my kids go to it, and I'm not going to engage you guys in a debate. I've watched this before. I don't have the energy for that.

I think a lot of the problems come from the Common Sense Revolution. I went through this. Two years ago, 28 months ago, a lot of the people I worked with were really excited about this. They really were. Some were neutral; some weren't too sure about it. A lot of people were really excited on my staff. They turned to page 8, where they talk about maintaining classroom funding. Then they found out that they didn't mean music, art, drama, guidance, tech, computer teachers. They're not real teachers. Adult education is not a real classroom; you only have to fund it at one quarter the level.

**Mr Wildman:** Now there's junior kindergarten.

**Mr Lauder:** Or junior kindergarten, although I have to admit you guys were honest on junior kindergarten. In the Common Sense Revolution you said you'd make it optional.

When I look at this document now — I can't look at it without my glasses — I feel pretty foolish, because in the areas that deal with health care and law enforcement, you actually did say you would take the savings and reinvest them, but you didn't say that in education, and I missed that. I didn't miss it three weeks ago when Hugh Segal, who I really admire, said on TVOntario that your idea, Bill 160, is unsellable in Ontario unless you get in front of a microphone and say you'll do what you did with health care, and that is reinvest the money you save. You've got to reinvest it.

I'm a big-time phone guy. I phone all the time. I've never got an answer, when I phoned, on why you won't reinvest the money. You soothe people's fears on health care by saying: "It's okay. We're going to close hospitals, but it really is okay. We're going to have community care, we're going to have this, we're going to have that, and the money will go back in." With education, it's just: "We can take it out. We can make it cheaper and better."

I'm taking a long time to get to my point, but what really worries me is that you've got 127,000 people who don't agree with you. On one of these pages in here, I think it's page 12, you've said you're going to be the first government that does its business like a business. This is not doing things like a business. You don't systematically beat up on your workers for over two years and then say, "Okay, we're going to put it through."

I have no doubt you'll put it through. I mean, 70% of people in Toronto didn't like megacity; you passed it. I think you've got the integrity and the guts to do that, and if you've got to fire 10,000 teachers to make it a better system, open the door and fire them. If you know in your heart that's what's got to happen, that you can make this a better system, I don't understand why you hold off. Get rid of them. Don't wait. Fire them now and make the system better a hell of a lot faster.

## 2110

I've got a daughter going into grade 9 next year and I don't want her in the system that you say is the worst in Canada, the caboose of the Canadian educational train. Incidentally, she asked me an interesting question the other day. She asked if she could take next year off. I asked her why. She's a smart little kid, she's also a bit of a wise guy. She said: "If I go next year, to Malvern, I'll graduate in June 2003 from a broken system. If I sit home for the whole year, I'll graduate in June 2003 in the new and improved system." I'm not going to let her sit home because I'm a responsible parent.

What I'm saying is you've lost the workers. You've beaten up on us so bad. When I go into work now — I've taught for 30 years and it's hard to ruin my enthusiasm — it is. Mr Snobelen's aide is here; he knows. I'm the guy who phones John Snobelen's office — it's very childish — at 7:30 every morning to let him know I'm at work, because I actually go to work at 7:30. I'm not an easy guy to destroy the enthusiasm of, but you're beginning to get to me. I work with people, believe it or not, who have given up.

When the dust settles on this thing — you're going to run this business as a business, you beat the hell out of your workers — let alone Bill 160 and what's in there — as a strategy, I think it's a damn poor strategy. General Motors last year had a strike with their workers. They might have been furious with those workers. The American president came up for a Canadian meeting. I bet that guy was mad as hell, and what did he say when he gets off the plane? "The best cars in the world are produced in Oshawa. The best workers we have are here in Canada, the most productive workers."

Maybe behind closed doors he wanted to grab Buzz Hargrove by the neck and wring the life out of him, I don't know, but he never knocked the system. For 28 months there's barely a day goes by that you guys haven't knocked the system. When I leave in the morning — I'm glad I leave when it's dark. My neighbours know I work in the worst damn school system. In this document, we're at the bottom. We're below Portugal. I don't want to insult anybody from Portugal, but we're at the bottom, and yet we are the number one place in the world to live. I want to know where the hell those people come from. When I drive on the Gardiner, do I have to worry that highway is going to collapse? I know I'm kidding you guys a bit but it's so silly, the overkill, what you've done, and now you've got to work with us.

You want to hire new teachers. Ernie Eves said in the budget last year — and I admire that man — that he was going to set aside \$250 million — and you guys don't set aside money for nothing — to bring 6,000 new teachers into the system. Seven thousand teachers retired in June; you don't need a cent to bring in 6,000, unless you want to get rid of 13,000.

You ask for ideas. If you really want two areas to work on — one area that we don't do a good job of right now is, we don't do a great job of educating the poorest kids in this province, and there are studies to show that. If you

want to look at middle class and above, we meet national standards or we beat them in international standards. I'd love to see the government and the teachers and the parents and trustees get together and develop a plan for working with the poorest kids in the system.

Also, I'd love to see you guys throw yourselves at adult education in a wholehearted way. What I don't understand is why you don't want to fund that. It fits your model. It does such a job of getting people back to work. You guys don't have to believe me, because you've got studies. I taught a co-op class last term for adults and by June, 16 of my people had full-time jobs. I figured out the savings from my class to the taxpayer at over \$300,000, and all you had in that room was a teacher. You didn't give me a computer, I didn't have a phone, I didn't have a fax machine.

I have a neighbour who makes a great living as a headhunter, works out of her office. When I told her what I did, she told me she wouldn't deal with any of those people because they didn't have Canadian experience; that's not who she works with. It works. Then I find out we're not going to fund it; it's not a real classroom. I don't understand that. Yet I know you guys can explain it to me. When Mr Snobelen was the minister I used to phone him all the time and I was always getting explanations, but they just didn't sound right somehow.

You might wonder why I'm here. I'm one of those guys that Ernie Eves is going to let retire with dignity. Clearly, I have some concern for the system. I figure that you're probably going to shorten my teaching opportunity by two or three years. So I shouldn't worry about it, leave the system behind.

I didn't want to talk for a whole 10 minutes. I was hoping somebody would talk to me.

**The Chair:** Mr Lauder, I think you missed your calling, with your enthusiasm —

**Mr Lauder:** That's what a teacher does.

**Mr Wildman:** That's exactly what a teacher does.

**Mr Lauder:** Really, that's what a teacher does. I know I can't get across to you guys — I know that you know you have to do what you've got to do — what goes on on a daily basis and I know you don't want to hear about it, but you also know it's true. You guys went to school, you had coaches. I can't do it any more because I've gotten older. Cross-country season lasted two and a half months. I never slept in bed. I slept on the couch because cross-country practice started at 7 o'clock and I had an hour to get to school. I didn't want to wake anybody up in the family.

I'm not saying that because, "Oh my God, you guys do something, so I'll help you out." But that is the reality and that enthusiasm — you're right, I could sell cars, I could sell mutual funds. Like most teachers, what do I do? I also work in the real world. I run a small business, and so do about a third of the people I work with. People are fond of saying to teachers, "Get in the real world." If you freeze our salaries for another two years — it's been six years now — you'll have all the teachers working part time.

**The Chair:** Thank you very much. It is the real world and our time is up. I know I speak on behalf of all members of the committee in thanking you for your presentation.

**Mr Lauder:** Thank you. I figure I did pretty well if nobody yelled at me over here.

## ORDE STREET PUBLIC SCHOOL PARENTS COUNCIL

**The Chair:** Our next presentation is the Orde Street Public School Parents Council, Mr Jose Freire-Canosa. Welcome, sir. Please proceed.

**Mr Jose Freire-Canosa:** I have with me the president of the parents council, Lucy Camposano. I speak three languages and it's reflective also of the school community.

I'd like to begin by saying that time and time again history has demonstrated the value and strength of local autonomy to resolve local issues. In this respect, the proposed changes to the Education Act run counter to this experience by concentrating the power of decision-making in a few hands, primarily with the Ministry of Education. The planning of education will henceforth be centrally planned.

Our school, Orde Street, is centrally located in downtown Toronto at College Street and University Avenue, a few steps from this Legislature. Orde Street school, however, is not an ordinary school that will fit to any standardized school system. It is a vibrant, multiculturally integrated community school. The students come from many varied backgrounds. It serves the Chinese community downtown, which is its major component. It also has a sizeable component of Canadian heritage students, along with a distinguished black, Spanish and Muslim community. Also contributing to the success of this school is a sizeable component of Canadian-born students whose parents have a diverse professional background.

On a statistical basis, the Chinese-descent background of the student population is about 30%. The student community comes from 48 countries and the students speak 29 different languages. English as a second language affects 51% of the students. There are, however, problems and issues of typical inner-city schools due to socioeconomic factors such as single-parent families and lower socioeconomic levels. Nevertheless, the school has a successful student body, with 13 out of 20 students yearly making it into the gifted programs and scoring in the 98 percentile. Many of our students have achieved excellent scores in the recent provincial tests.

The school also has a well-integrated day care program which currently occupies six rooms in the school. There is a lunch program and a breakfast program with Mount Sinai Hospital. As well, the school community has demonstrated leadership by securing green space adjacent to the school which is currently under construction. This was partially due to the relationship the school community maintains with its trustees and community leaders.

If there is an appropriate term that can best describe our school, it is "distinctiveness." This distinctiveness of



our school makes our concerns and problems particularly personal to Orde. Some issues are, however, common with many downtown area schools, hence the importance of having a board such as the Toronto Board of Education that, by covering the current area, is familiar and attentive to our local problems. A larger board will in this instance be counterproductive because our problems and needs require a local understanding. This local dimension can only be done when our institutions live within our environment. Hence the need for local solutions and autonomous decision-making as expressed earlier on. This autonomous decision-making contrasts with the centralized, impersonal decision-making being espoused in Bill 160, decision-making by a ministry that by its very nature is far removed from our local traditions and environment.

**2120**

We need the personal contact with our trustees. We are free people and we need free trustees to represent us. Our problems might be unique enough that their solutions might require radical decisions which could, in cases, be controversial to the standardization espoused in Bill 160. However, under section 257.45, the trustees will not be allowed to vote against ministerial decisions, even though this could be the better and only way for our needs to be heard. In other words, Bill 160 does away with that freedom and autonomy.

We said our relationship with the trustees is personal and amiable. They are well respected in our school and we look up to them for leadership. Under the new proposal, the remuneration being suggested of \$5,000 will make this personal contact nearly impossible, since their time will be at a premium and the remuneration will barely cover their meetings.

Bill 160 goes a step further in allowing decision-making to take place electronically. This impersonal decision-making, whether by computer or video, would render the board even more remote and truly become the ultimate virtual reality. A board where personal contact no longer takes place becomes subreal.

There are, of course, other areas where we will be impacted negatively in a practical way. Teacher morale is of immediate concern. Others include class size; prep time, which will have a significant impact on our students' extracurricular activities; security and safety of our children as we lose control of our caretaking staff to a third party; French as a second language — these programs are uncertain as the supporting network collapses into a mega-board; international languages, as minorities lose rights to their heritage under Bill 160; our kindergarten program; the quality of assigned teaching staff as proposed in the bill to persons without a teaching certificate; scarcity of supplies; support for programs which might become outside the ministry standards, such as the lunch and breakfast programs, the Chinese, Spanish and black heritage programs that currently are part of the curriculum of the school.

The act will also institute a student number, and section 266.5 prescribes that personal information is to be collected "other than directly from the individual." If this be

the case, matters of confidential nature can be accessed without due regard to the right to privacy. Section 257.44 gives total powers to the minister "to have access to all records." This will unnecessarily contribute to a breakdown in the special relationship that we have developed at our schools, since this section and some others in the act will restrict staff freedom of expression and in fact breed suspicion.

There are also punitive measures of a criminal nature for students who fail to attend school; section 12, subsection 5 of the act. We wonder how an individual being forced to be in a situation for which an adequate solution has not been found will help. It will actually contribute to an explosive environment, to the detriment of everyone else. We fail to see the wisdom of this measure.

We have focused on a few but pertinent articles of this act. We could have concentrated on many others. We could show in how many other ways this act will negatively impact our school and, we are afraid, our land.

Bill 160 is not a user-friendly act. The explanatory notes are 260 pages long, yet the changes are for the most part called "housekeeping."

The act is proclaimed as leading to protecting classroom funding, enhancing accountability, consistent with the government's education quality agenda. However, there is no preamble to the act that defines what is meant by "quality education." The reader wonders what is the vision and mission of this act.

**The Chair:** Excuse me, sir. There is only one minute left.

**Mr Freire-Canosa:** Thank you.

From its beginning, a first reading leaves one with the impression of a prescriptive and regulatory act for administrative matters in education. In fact, the so-called housekeeping changes are a radical departure from established understanding. For instance, the public school board is replaced by the "public board." A cosmetic change, you say, only that when reading is done of the Human Rights Code, Statutes of Ontario, 1981, chapter 53, article 18, page 7, it becomes clear that "public school boards" and "separate school boards" have a legal meaning and are granted certain rights under the British North America Act of 1867. We at Orde prefer the designation of "public school board." We see no wrong with it, and in fact moving away from it might remove rights enshrined in the BNA.

In closing, we want to extend an invitation on behalf of the principal and staff of the school, and of myself as president of the parents council, and on behalf of the parents council and parents, to visit our school and appreciate at first hand its uniqueness and how, in so many other ways, you could continue contributing positively to our school. Thank you very much.

**The Chair:** On behalf of the committee, thank you for your presentation here today.

## MARION ENDICOTT

**The Chair:** Our next and last presentation of the evening, Marion Endicott. Good evening.

**Ms Marion Endicott:** Good evening. I'd like to begin by thanking you for the opportunity to present to you today. Also, I am somewhat dismayed by the shortness of time that I and all the other presenters have to make our points. I was actually only notified a short time ago that I was even going to have the opportunity to present so I haven't even had that much time to pull my points together.

My name is Marion Endicott and I'm here as a parent. I have three children in the public education system here in Ontario: one in grade 5, one in grade 9 and one in grade 13.

I would begin, although I don't like to, on a negative note, and that is to question the value of me even being here. I've made the point about the shortness of time. One thing that I can't help but think about as I sit here is that the usual response by this government to anybody who has a note of criticism to it is that the view represents that of a special interest group. "Oh, don't listen to that. It doesn't matter. It's just a special interest group opinion." I wonder, will you take my concerns and the concerns of other people seriously, or will you just shelve them on a shelf labelled "special interest group — parents." I hope not, but I can't help but fear that that's the case.

The second problem is not only the shortness of time that we have to present to you, 10 minutes, but also the lack of scope for these public hearings. Seven days across this province to cover a bill that purports to have as much impact as this one does, I believe, is simply inadequate on such an important subject as the education of our children.

Thirdly, who are you? This standing committee, I don't believe, is the standing committee that usually concerns itself with education matters, and I have no idea whether you have any background whatsoever in this bill. I can only hope that, as the committee on the administration of justice, you will see the injustice in Bill 160.

All of this leads me to my first recommendation, which is that you greatly increase the amount of time you will be putting into these public hearings. I urge, along the lines of the previous speaker, that you include in that time an actual hands-on approach where you visit schools, where you hold town council types of meetings, where you have groups of parents who you can see engage in debate, and you have pedagogical experts come and speak to you about the importance of early childhood education and all those kinds of theories that were included in the recent royal commission. I truly hope that you will do that. I think that if you take your job seriously, you must do that.

2130

What does this government say that it does hope to achieve in Bill 160? It claims that it wants to improve the quality of education. This, of course, is a laudable cause. No matter how much I may criticize this particular bill, I would be the first to say that there's always room for improvement in the education system and all sorts of

programs that we have in this province. But what kind of improvement does this government want to give? I looked around and I tried to find something where this government indicates what it plans to do with Bill 160. There really isn't very much information.

But there is this brochure called Putting Students First: Back to School; Your Guide to the New Face of Education. That seems like a pretty good document to go to, published by the government. When I look through it, there's very little that has to do with Bill 160, but I think page 6 is really the page that deals with it. What it says is, "Student-Focused Funding: Focusing Dollars on the Classroom." There's actually very little here. There's a nice picture of a boy with a computer, there's a graph showing the supposed average class size in this province and then there's an about three-quarters text column that talks about the actual goals of the government.

The thing that really bowls me over when I look at this is the last paragraph, which talks about the funding for the whole thing. What it says is, "To ensure a smooth transition, Ontario will invest more than \$13 billion a year — the same as last year — in the province's education system right through to the end of the 1997-98 school year." It's worded as though that's a tremendous commitment. I think we all know — and I'm sure it has been pointed out to you a thousand times already — that the \$13 billion already includes a \$1-billion cut. We were previously funded at \$14 billion, so there's nothing wonderful about that \$13-billion mark.

In addition to that, it suggests here that there is absolutely no commitment to \$13 billion in the future. This leaves it open — and I believe Bill 160 certainly does that — for a substantial decrease in the amount of funding that's going to go to our education system. Whether or not we could maintain our education system on that level, I kind of doubt, but certainly we cannot improve it without increasing resources to it and certainly we cannot improve it by cutting the financial resources that are available. That's really all that stands out to me from what the government is proposing; that is, no improved funding and probably a decrease.

I would like to mention that the \$1-billion cut that's already been introduced is already being felt in the classroom. In my youngest child's school, for example, the PA system does not work. It used to be that when the PA system broke down, a note would go into the board of education and it would be top priority to get that fixed, because the school can't function well without a PA system. In fact, it's dangerous. The PA system has been broken for two weeks. That was unheard of in the past. But now it happens.

I was talking to another teacher who has been teaching for many years. Although there were problems in the heating in the school from time to time over the years, it was always a top priority to have that fixed. When it happened, it would be fixed within hours, or at least by the next day. In the last two years she and the whole school have had to go home because the school was too cold.



There have been school days lost due to the lack of heat in that school.

Another funding cut that my children have noticed is the lack of field trips. They have noticed, through the years, that the number of field trips that they have been allowed to go on have been dramatically reduced. I'm sure there are many others, but those are just a couple.

What the funding cuts tell us is that there's really no commitment to improving education, and I urge this committee to accept any recommendations which will ensure that funding is improved or at least not cut through Bill 160.

There's very little in this newspaper about what the government really intends, because it doesn't want to be explicit about its plans for fear of public backlash. Once Bill 160 is passed, profound changes can be made behind closed doors. The Education Improvement Commission has been set up, and it has a number of subcommittees. I have been told that one of those subcommittees has already recommended that there be cuts in the maintenance area by \$60 million just within the city of Toronto alone. Those same cuts over Metro will amount to \$200 million. What do those cuts mean? Those cuts mean schools which are less safe, are less healthy and will be less pleasant to be in.

Another point is, surely one of the things that we want to teach our children is how to be fully involved members in the democratic aspects of our society. As such, our government should set the standard. What lesson are you teaching our children through Bill 160, which proposes to do things by regulation, which does not require any public scrutiny? You're teaching our children not to consult, not to bother with investigations — certainly the results of the royal commission are not being taken into consideration; don't invite participation; just do what you want and be damned with anybody who doesn't agree with you. I urge you not to forget that an important ingredient in making Canada one of the most desirable places to live in is that very history of consultation, investigation and careful decision-making.

This government has alluded to some changes that it would like to make through Bill 160, even though Bill 160 itself is not specific as to those. I'll just comment on a couple of those. One of course is preparation time. I know you've heard a lot about that subject from teachers, but I'd

like to speak to you about it as a parent. I'd like you to know that, as a parent, I value the preparation time that my children's teachers have. I know they use that preparation time in order to more closely look at the journal that my 10-year-old is writing and to reflect on his life and his spelling and his sentence structure and his fears even, so that the teacher can deal with him as a whole person and help him through his specific problems more effectively.

**The Chair:** We have one minute remaining.

**Ms Endicott:** Okay. This morning I drove my daughter to school to be there at 7 o'clock to participate in a basketball practice. She goes there a couple of times a week at 7 o'clock. Her teacher is there too. We know that teachers use their prep time for the benefit of the students and for the enhancement of the quality of education. We also know that cuts in prep time will actually increase class size, and that cannot improve the quality of education. I urge you to make sure the cabinet understands that parents — at least the parents I've talked to, and certainly I do — support prep time and want to see it kept as it is.

I want to just very briefly speak about school councils—

**The Chair:** It will be because you only have 10 seconds left.

**Ms Endicott:** Okay. I'll skip the school councils. I would just ask you to think about the fact that this bill was initiated by a minister who, unfortunately, had to publicly say that he was going to do his business on the basis of inventing a crisis. I do not trust a bill that was ushered in by a minister who had that proposal. I urge you, even those of you who are from the same government, not to trust a bill that is written by a minister who did so on the basis of inventing a crisis, and I urge you —

**The Chair:** I thank you, Ms Endicott. Your time has elapsed.

**Ms Endicott:** — to understand that — as a member of the public, I just want to —

**The Chair:** No. I've given you a minute and I've given you 10 seconds. Thank you very much for your presentation.

Our committee's work has at long last come to an end this evening. We're adjourning until 9 am in this room tomorrow morning.

*The committee adjourned at 2139.*

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Mr Bud Wildman (Algoma ND)

### **Also taking part / Autres participants et participantes**

Ms Marilyn Churley (Riverdale ND)  
Ms Frances Lankin (Beaches-Woodbine ND)

### **Clerk / Greffier**

Mr Douglas Arnott

### **Staff / Personnel**

Mr Andrew McNaught, research officer, Legislative Research Service



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Mr John Rylie	
Ms Diane Greenhalgh	
M. Yves Bouchard	
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